

No. 81980-E

STADIUM CASE

(Records & Briefs)

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81980-E

FILED SEP 1 1948

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IN THE  
**Court of Appeals of Maryland**

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OCTOBER TERM, 1948

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No. 58

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FREDERICK E. GREEN and MINNIE C. GREEN,  
his wife, et al.,  
*Appellants,*

vs.

ROBERT GARRETT, et al., President, Department of  
Recreation and Parks of Baltimore City; BALTI-  
MORE BASEBALL & EXHIBITION COMPANY;  
INTERNATIONAL LEAGUE OF PROFESSIONAL  
BASEBALL CLUBS,  
*Appellees.*

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APPEAL FROM THE CIRCUIT COURT NO. 2 OF BALTIMORE CITY  
(MASON, J.)

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**APPELLANTS' APPENDIX**

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WILMER H. DRIVER,  
Solicitor for Appellants.



# INDEX TO APPENDIX

	<i>App. Page</i>
PLEADINGS:	
Bill of Complaint.....	1-13
Demurrer and Answer of Baltimore Baseball and Exhibition Co.....	13-29
Demurrer and Answer of Department of Recreation and Parks.....	30-46
EXHIBITS:	
Respondent's No. 1—	
Baltimore Stadium Events.....	46-77
Respondent's No. 2—	
Earnings and Disbursements from Baltimore Stadium .....	78
Complainants' No. 16 and 19—	
Agreement dated April 2, 1947, between Board of Park Commissioners and the Baltimore Baseball and Exhibition Co. ....	472-480
Two Photostats .....	481
	482
	483
	484
Defendant's No. 5—	
1948 Schedule of Baseball Games.....	485
Defendant's No. 12—	
Schedule of Stadium Uses from 1939 to 1947 .....	486-489
Opinion Filed April 5, 1948 .....	489-508
Decree Filed April 28, 1948.....	508-510

## TESTIMONY:

	<i>Direct</i>	<i>Cross</i>	<i>Re- Direct</i>	<i>Re- Cross</i>
Adams, Clarence P.....	325	328	335	334
Armor, George M.....	284	286		
Armstrong, Herbert E.....	348	357		
Baldwin, Thomas P.....	335	336		
Beale, James D. H.....	371	376	378	
Beckman, Fred D.....	420	423		
Bradley, Alex J.....	424	426		
Broening, William F.....	259	261		262
Brooks, C William.....	162	164 165	165	
Bubert, William I. J.....	453	455		
Burriss, Walter R.....	153	156		
Callahan, William H.....	440	442		
Courts, Winfield F.....	267	267		
Crueger, Herman C.....	119	126 129		
Dewey, Earl S.....	378	381		
Downey, Mrs. Helen.....	392			
Downey, S. Boyd.....	387	391		
Drennan, Mrs. Charlotte.....	438			
Finn, William P.....	430	432		
Frederickson, George V.....	202	205		
Fuller, Sgt. Harry.....	308	309	310	
Garrett, Robert .....	227	230		
Gentry, William D.....	209	213		

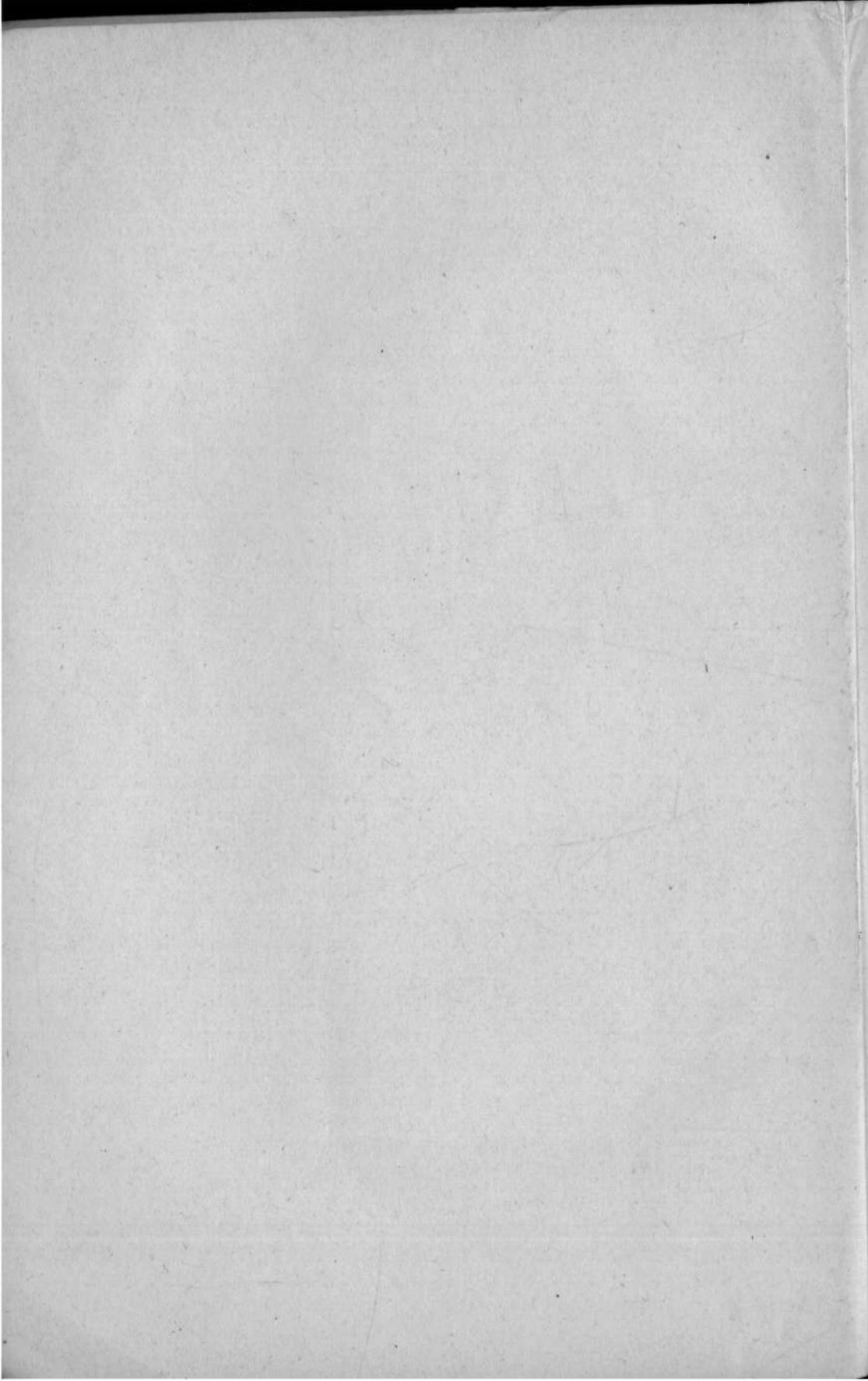
	<i>Direct</i>	<i>Cross</i>	<i>Re- Direct</i>	<i>Re- Cross</i>
Green, Frederick E.....	107	113	117	118
		117		
Grelecki, Peck Jan.....	393	396		
Gribbin, Lt. August K.....	304	306		
Grieves, William P.....	383	385		
Gross, Jacob J.....	179	184		
Guckert, Thomas J. ....	291	294		
Gundersdorf, S. C.....	194	201		
Guyton, Dr. J. D.....	157	161		
		162		
Hannock, Frank A.....	271	276		278
Heron, Mrs. William P.....	149	152		
Hinze, Mrs. Harriett D.....	219	220		
Hinze, Val B.....	470	471		
Hook, Charles A.....	288	291		
Hooper, Dr. Z. Vance.....	224	225		
		226		
Itzel, Insp. Joseph A.....	142	145		
Kabernagle, Alfred W.....	206	208		
Kelly, C. Markland.....	295	296	300	
Kelly, James V.....	243	247	254	257
King, Joseph J .....	311	315		
		317		
Kluter, Mrs. Annie E.....	427			
Knight, Charles A.....	185	192		
Livingstone, Lt. Millard F....	301	303		
McAllister, Lloyd G.....	320	321		



	<i>Direct</i>	<i>Cross</i>	<i>Re- Direct</i>	<i>Re- Cross</i>
McGowan, George E.....	239	241		
Martien, James Carey.....	359	366		
Morrow, Elmer W.....	337			
Motta, Nat .....	467			
Motta, Theodore .....	263	265		
Noonan, John A.....	347	347		
Ragland, Laurence .....	456	458		
Reed, George W.....	459	460	461	
Regan, Mrs. Anna M.....	471			
Ricks, Donald .....	370	371		
Roche, James M.....	462	465		
Schilling, Miss Marguerite..	451	453		
Schmeller, William H.....	409	411 412		
Schmidt, J. Pane.....	444	449	450	
Schmied, Otto K.....	170	177 178		
Schwartz, Mrs. Clara M.....	396	398		
Shaughnessy, Frank .....	284	284		
Shettle, Col. John G.....	257			
Slagle, Jacob D.....	280	280		283
Staples, Lee .....	129	138 140	141	
Steelman, Rev. Frank .....	220	224		
Stein, Alvin .....	432	434		
Stockhausen, William G.....	402	405	408	

V

	<i>Direct</i>	<i>Cross</i>	<i>Re- Direct</i>	<i>Re- Cross</i>
Thompson, Harry L.....	416	418		
Timanus, Mrs. D. H.....	436	437		
Werner, Edward .....	399	401		
Werner, John A.....	412	414		
Whitby, Charles H.....	215	218		
White, H. M.....	339	342	344	346
Wilkinson, Paul J.....	230	232	237	237
		233	238	239
		234		
		236		
Wright, Harry Y.....	79	95	105	106
		104		
Zweier, Ralph .....	165	170		





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**APPELLANTS' APPENDIX**

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**BILL OF COMPLAINT**

(Filed 23rd December, 1947)

Frederick E. Green and Minnie C. Green, his wife;  
William D. Gentry and Mary E. Gentry, his wife; Lee  
E. Staples and Grace H. Staples, his wife; Chester W.  
Vandusen and Stella P. Vandusen, his wife; Harry Y.  
Wright and Mildred B. Wright, his wife; Wilfred C.

Gosnell and Anna Marie Gosnell, his wife; Z. Vance Hooper and Anne W. Hooper, his wife; Henry G. Spates and Helene F. Spates, his wife; J. Willis Guyton and Sue M. Guyton, his wife; Charles H. Whitby, 3rd and Katharine M. Whitby, his wife; Walter K. Harrison and Mabel B. Harrison, his wife; Leo J. Streb and Margaret deLauder Streb, his wife; Miss Jennie Sophie Hayen; Frederick Thomas and Helen E. Thomas, his wife, Complainants, by Wilmer H. Driver, their Solicitor, respectfully represent unto your Honor as follows:

1. That each of the Complainants is a citizen and taxpayer of the City of Baltimore, State of Maryland, and have been such since the date of acquisition of the title to their respective properties, photostatic copies of the deeds by which each of the Complainants acquired title and the receipted tax bills or cancelled checks covering the same being attached hereto and prayed to be considered herewith, designated as Complainants' Exhibits Nos. 1 to 14, inclusive.

2. That each of said Complainants reside in close proximity to the Baltimore Stadium, having purchased their homes prior to the use and occupancy of said Stadium by the Respondent, Baltimore Baseball and Exhibition Company.

3. That the Respondents, Robert Garrett, President; J. Marshall Boone; Mrs. Howard W. Ford; S. Lawrence Hammerman; Bernard Harris; R. Wilburt Marsheck; Weston B. Scrimger, constitute the Department of Recreation and Parks of the City of Baltimore, and have succeeded to all of the rights, duties and obligations of what was formerly known and designated as the Board of Park Commissioners of the City of Baltimore, State of Maryland, by virtue of the provisions of the new City Charter approved by the voters of Baltimore City on November 5, 1946, and as such have supervision, control and management of the parks of Baltimore City.

4. That the Respondent, Baltimore Baseball and Exhibition Company, is a private Maryland corporation, operated for profit, having its principal office in the City of Baltimore, State of Maryland, and owns, controls, manages and directs the International League baseball team known as the "Baltimore Orioles", and at all times mentioned in this Bill of Complaint, owned, managed, controlled and directed said baseball team.

5. That the Baltimore Stadium is located on 33rd Street, in the City of Baltimore, and is bounded by Ellerslie Avenue, 36th Street, and Ednor Road, and contains an area of approximately 29.116 acres of land; that said Stadium, since its construction, has been intermittently and infrequently used for the playing of various non-professional games and the staging of various exhibitions, mainly of a religious, civic or patriotic nature, but has not been used by any one group for any extended period of time or on more than infrequent occasions, a plat showing the location of said Stadium, the surrounding area and the location of the Complainants' homes being attached hereto and marked Complainants' Exhibit No. 15.

6. That since the construction of the Stadium, the area surrounding the same has been developed into a residential area containing approximately 1100 homes of substantial and expensive character within a radius of two city blocks; that in addition thereto there are several churches, the Baltimore City College and the Eastern High School; and that because of the intermittent and infrequent use and the nature of the use of said Stadium and the further fact that most events occurred in the daytime and on weekends, the residents of the area and your Complainants have not in the past been unduly disturbed, injured or damaged by the use which has been made of the same, until the occurrence of the events hereinafter set forth.



7. That on the 4th day of July, 1944, the said Respondent, Baltimore Baseball and Exhibition Company, owned, managed, directed and controlled the said baseball team which then owned and had as headquarters what was popularly known in the City of Baltimore as "Oriole Baseball Park", located at Greenmount Avenue and 29th Street in the City aforesaid; that on that date a serious fire occurred at said baseball park and destroyed the same, with the result that the Baltimore Oriole baseball team had no available location upon which to play the remaining home games of its schedule and thereupon the then Mayor of Baltimore City, the Honorable Theodore R. McKeldin without consulting the Board of Park Commissioners, offered the facilities of the Baltimore Stadium to the owners and managers of the Baltimore Baseball and Exhibition Company so that said baseball club could finish the remainder of the games scheduled during the 1944 season.

8. That the use and occupancy of the Baltimore Stadium by the Baltimore Baseball and Exhibition Company resulted in many changes, renovations and alterations being made in the physical structure of the Baltimore Stadium, to wit: the installation of certain flood lights, construction of a baseball diamond on the Stadium playing field, the construction of a radio broadcasting booth, plus the installation of certain other structures and equipment to permit the playing of baseball.

9. That the area surrounding the Stadium is not only residential in fact, but has been and is zoned exclusively for residential use.

10. That the playing of baseball games during the remainder of the 1944 playing season caused an intolerable and unbearable nuisance to the Complainants and has prevented the reasonable use and occupancy of their homes by virtue of the frequency of the crowds of people going to and from said games, the increase in

traffic with the resultant increase in noise and the further parking of automobiles in the front and rear of your Complainants' homes to the extent that on numerous and frequent occasions your Complainants have been unable to have the normal and reasonable use of the streets and alley near their homes and have been unable to gain access to the garages in the rear thereof, the continuous loud noise emanating from the loud speakers before and during the playing of said baseball games, the continuous shining of lights on and in the homes of your Complainants from the flood lights so installed, and the drawing to the Baltimore Stadium, among others, of an element in the community which has a reckless disregard for the property and privacy rights of the residents of the area, including the Complainants, all of which nuisances, damage and destruction will be more fully set forth hereinafter; that as a result of the situation set forth, conferences were held between representatives of the Complainants, the Baltimore Baseball and Exhibition Company and the City of Baltimore in an effort to minimize said nuisances; at that time and at all times since then, until recently, the duly constituted authorities of the City of Baltimore and the authorized representatives of the Baltimore Baseball and Exhibition Company have represented to the representatives of the Complainants, known as the Stadium Neighborhood Protest Committee, that the occupancy of the Stadium by the "Baltimore Orioles" was temporary; that it was immediately impossible to rebuild Oriole Park or to construct another because of the lack of materials for the construction of the same; and that just as soon as possible the Orioles would vacate the Stadium; that with this understanding and with the full appreciation of the plight in which the management of the Baltimore Baseball and Exhibition Company found itself and with the desire to cooperate, the Complainants withheld further objection without prejudice to their rights.

11. That each year since, the Baltimore Orioles have played their home games at the Baltimore Stadium and each year, until recently, have manifested a desire and intention to vacate the same as soon as construction materials were available for the rebuilding of Oriole Park or the construction of a baseball park elsewhere.

12. That on April 2, 1947, the Board of Park Commissioners of the City of Baltimore and the Baltimore Baseball and Exhibition Company entered into an agreement by which the Baltimore Stadium was leased for the period from April 2, 1947 to December 31, 1947 to the Baltimore Baseball and Exhibition Company, a conformed copy of said agreement being filed herewith and prayed to be taken as a part hereof and designated as Complainants' Exhibit No. 16.

13. That the scheduled home games for the 1947 playing season were seventy-two (72) in number and covered the period from April 17, 1947 to August 31, 1947, during which period the Baltimore Baseball and Exhibition Company had exclusive use of the Baltimore Stadium with the exceptions set forth in said agreement, most of which games were played at night or on Saturdays and Sundays, and on frequent occasions double headers were scheduled and played; and your Complainants believe and therefore allege that the 1948 playing season will cover approximately the same period of time and will call for the playing of approximately the same number of games during approximately the same hours.

14. That while the agreement designated as Complainants' Exhibit No. 16 is called a privilege, it is in fact an attempted exclusive leasing of the Baltimore Stadium to the Baltimore Baseball and Exhibition Company, subject to the exceptions therein set forth; and your Complainants further allege that the Baltimore Baseball and Exhibition Company exclusively uses and occupies in fact offices on the second floor of the Adminis-



tration Building of said Stadium all the year around and to the exclusion of all others.

15. That, despite prior assurances to the contrary, it recently came to the attention of the Complainants that it was and is the intention of the Baltimore Baseball and Exhibition Company to secure permission to make the Baltimore Stadium the permanent headquarters of the Baltimore Orioles and to lease said Stadium for another year, and the intention of the presently constituted Department of Recreation and Parks of the City of Baltimore to enter into negotiations with the Baltimore Baseball and Exhibition Company looking toward the execution of an agreement covering the 1948 playing season in violation of said understanding and to continue the nuisances and illegal activities heretofore and hereinafter set forth, all of which your Complainants say will result in irreparable damage and injury to them, deprive them of their right to peacefully and quietly enjoy their respective homes and cause the value of their properties to deteriorate.

16. That your Complainants represent unto this Court that the playing of baseball games by the Baltimore Orioles in the Baltimore Stadium is, for the most part, carried on at night from the hours of 8:00 P.M. until 11:00 P.M. and on Sundays from 2:00 P.M. to 5:00 P.M.; that said schedule is changed from time to time for the playing of double headers in which case the first game usually begins at 6:30 P.M. if scheduled for the evening.

17. That the use and occupancy of the Baltimore Stadium by the Baltimore Baseball and Exhibition Company results in the drawing to the Stadium of large numbers of people who congregate and assemble in such a manner as to create an unbearable and intolerable nuisance to your Complainants and to other residents in the area, in that the attraction of large numbers of people to the Stadium, bringing with them their automobiles, creates an intolerable and unbearable traffic problem, precluding your Complainants from the normal

and reasonable use of the streets and the alleys in and about their properties to the extent that they are unable to park their automobiles at or near their homes, and on occasions too frequent to enumerate have been unable to gain access to their garages either for the purpose of removing or housing their respective automobiles; and further that the crowds so attracted by the baseball games, in addition to parking their respective cars in an unlawful and improper manner, use the parking area adjacent to the Stadium, with the result that great clouds of dust and dirt are stirred up, and in order for your Complainants to enjoy at all their respective homes, they must close the windows in the same in order to prevent damage to the interior of their homes, and your Complainants say that at the time the said baseball games are played, the weather is hot, and the necessity of closing the windows in the home of your Complainants causes great hardship and physical inconveniences and prevents your Complainants from enjoying the normal and reasonable use of their homes; and your Complainants further say that on the occasions when double headers are played, the games start at 6:30 P.M. in the evening and last until approximately 11:00 P.M. and that for some time prior to the beginning time and for quite some time after the conclusion of the games, large numbers of boisterous people continue to move to and from the Stadium, as pedestrians and as operators of motor vehicles, and create so much noise that it is impossible for your Complainants to obtain their normal sleep and otherwise enjoy reasonable and proper use of their respective homes; and your Complainants further say that before and during the playing of said baseball games, the loud speaker system at the Baltimore Stadium is operated in such manner as to be heard great distances from the said Stadium and creates such a noise in the homes of your Complainants that they are unable to reasonably and normally enjoy the use of the same; and your Complainants further say that while said night games are in progress; large flood

lights are turned on, which flood lights reflect into the windows of your Complainants' homes and the homes of other residents in the area to the extent that they are unable to gain their normal rest and must stay up until said lights are put out; and your Complainants further say that among the people attending said baseball games there is an element of the community in attendance who have a complete disregard for the property and privacy rights of your Complainants and of others similarly situated, and on occasions too numerous to detail, have destroyed property and shrubbery and have littered your Complainants' lawns and shrubbery with empty liquor bottles, empty beer bottles and other trash and debris, and on many occasions have used the properties of your Complainants and other residents of the area as lavatories; and your Complainants say that said nuisances heretofore enumerated are not infrequent and occasional, but are frequent and usual on the occasions when the games of the Baltimore Baseball and Exhibition Company are played at the Baltimore Stadium, and that your Complainants have observed and witnessed said nuisances since the occupancy of said Stadium by the Baltimore Baseball and Exhibition Company and, therefore, believe and allege that if said use and occupancy is permitted to continue, the nuisances complained of will be repeated, all of which will curtail and destroy the reasonable use by your Complainants of their respective properties, and will ultimately result in a general deterioration of property values in the neighborhood.

18. That your Complainants further say that the Department of Recreation and Parks and the Baltimore Baseball and Exhibition Company have now under consideration, or are about to have under consideration, a renewal of the present agreement, or another similar in nature and effect, whereby the Baltimore Baseball and Exhibition Company seeks to use, and the Department of Recreation and Parks intends to permit the use

of, the Baltimore Stadium for the playing season of 1948, and further that if said contract is signed and the Baltimore Baseball and Exhibition Company makes use of the said Stadium during the season as aforesaid, that the Complainants will suffer irreparable damage to their property and be subjected to the unbearable and intolerable nuisances heretofore enumerated.

19. That the Baltimore Stadium is built upon property acquired by the Mayor and City Council of Baltimore by virtue of the following deeds and is dedicated and accepted public park property, references to said deeds being more particularly hereinafter set forth:

(1) Deed from Kate French Taylor, widow, to Mayor and City Council of Baltimore, a Municipal Corporation dated October 9, 1907 and recorded among the Land Records of Baltimore City in Liber R. O. No. 2380, folio 253.

(2) Deed from Mary E. Garrett, unmarried, to Mayor and City Council of Baltimore, a Municipal Corporation, dated April 6, 1908 and recorded among the said Land Records in Liber S.C.L. No. 2416, folio 310.

(3) Deed from Agnes H. Gibier, et al, to Mayor and City Council of Baltimore, a Municipal Corporation, dated June 21, 1916 and recorded among said Land Records in Liber S.C.L. No. 3069, folio 501.

(4) Deed from Eugene F. Delery, et al, to Mayor and City Council of Baltimore, a Municipal Corporation, dated May 28, 1917 and recorded in Liber S.C.L. No. 3164, folio 535.

(5) Deed from Maria F. Gibson, et al, to Mayor and City Council of Baltimore, a Municipal Corporation, dated July 2, 1917 and recorded in Liber S.C.L. No. 3164, folio 538.

(6) Deed from Mary F. Jacobs and Husband to Mayor and City Council of Baltimore, a Municipal

Corporation, dated May 29, 1922 and recorded among said Land Records in Liber S.C.L. No. 3866, folio 165.

(7) Deed from Mary E. Muller to Mayor and City Council of Baltimore, a Municipal Corporation, dated June 23, 1926 and recorded in Liber S.C.L. No. 4611, folio 279.

and that said property is therefore held for public use for all of the citizens of Baltimore, and that the action and contemplated action of the Department of Recreation and Parks, in executing or agreeing to execute a lease or other agreement in favor of the Baltimore Baseball and Exhibition Company for the 1948 season, is illegal, void and untra-vires of the powers of the said Department of Recreation and Parks in that said action or threatened action will permit the leasing or use of public property for private gain or profit and consequently violates the principle of law that public property cannot be devoted to a private use and is therefore against public policy and contrary to the purpose for which said Stadium was acquired, and further that said contemplated agreement, if carried into effect, will permit the operation of a commercial enterprise in an area zoned for residential use.

20. That your Complainants are advised that individually and as specially interested citizens and taxpayers of the City of Baltimore and on behalf of the other citizens and taxpayers having similar rights, duties and obligations, they are entitled to restrain the Respondents from converting and using a public park of the City of Baltimore for the unlawful purposes aforesaid.

21. That because of said action or threatened action, your Complainants allege that they are and will be irreparably injured and damaged and that they have no adequate remedy at law, and that unless this Honorable Court intervenes by way of injunction, your Complainants and others will be deprived of their lawful



rights in public property as aforesaid and their lawful right to enjoy the peace and quiet of their respective homes.

TO THE END, THEREFORE,

1. That the Respondents and each of them, their officers, agents, servants and employees may be enjoined, by a permanent injunction issuing out of this Honorable Court, from executing or attempting to execute or otherwise enter into any agreement directly or indirectly permitting the use and occupancy of the Baltimore Stadium by the Baltimore Baseball and Exhibition Company or its successors or assigns.

2. That the agreement dated April 2, 1947, filed herewith as Exhibit No. 16, be declared illegal and void and and that all acts, measures and things done or to be done thereunder or in consequence thereof, be restrained and enjoined.

3. That the Respondents and each of them, their officers, agents, servants and employees may be restrained and enjoined, by a permanent injunction issuing out of this Honorable Court, from causing or permitting to exist the operation of the loud speaker system at the Baltimore Stadium to the extent that said loud speaker system may be heard in the homes of your Complainants; from permitting or causing to be permitted the parking of automobiles in such a manner as to prevent your Complainants from the normal and reasonable access to and from their respective homes, and further from permitting the parking of said automobiles in such a manner as to create clouds of dust and dirt being stirred up and subsequently carried into the homes of your Complainants; and from causing or permitting to exist the flood lights now in operation at the Baltimore Stadium from casting light into the homes of your Complainants and other residents similarly situated.

4. That your Complainants may have such other and further relief as may be proper in the premises.

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DEMURRER AND ANSWER OF BALTIMORE  
BASEBALL AND EXHIBITION COMPANY

(Filed 20th January, 1948)

To the Honorable, the Judge of said Court:

The Baltimore Baseball and Exhibition Company, a Maryland Corporation, one of the Respondents in the above-mentioned cause, demurs to the Bill of Complaint exhibited against it in this cause, and to each and every paragraph thereof alleged as the basis for the relief prayed for as set forth in the first and second prayers of said Bill, and assigns the following reasons for its Demurrer.

I.

That the relief prayed under the first prayer of the Bill of Complaint should be refused for the following reasons:

(a) That said prayer is too vague, general and indefinite to warrant a Court of Equity granting the relief prayed.

(b) That the Bill of Complaint alleges, as grounds for the relief prayed under the first prayer, that the Respondents comprising the Department of Recreation and Parks of Baltimore City have no power to enter into an agreement directly or indirectly permitting the use and occupancy of the Baltimore Stadium by this Respondent, in that such agreement would be illegal, void and ultra vires of the powers of the said Department of Recreation and Parks; this Respondent however asserts

(1) that they do have power to enter into such an agreement by virtue of the Baltimore City Charter (as

ratified by the voters in November, 1946), effective May 20, 1947, Paragraph 96, sub-section (g), p. 78;

(2) that the grant and exercise of said power is not illegal, void and ultra vires, nor is it against public policy and contrary to the purposes for which the said Stadium was acquired; and

(3) that it is not illegal, void and ultra vires in that it will permit the operation of a commercial enterprise in an area zoned for residential use.

## II.

That the relief prayed under the second prayer of the Bill of Complaint should be refused for the following reasons:

(a) For the same reasons as set forth in paragraph I (b) of this Demurrer.

(b) That the agreement of April 2, 1947, referred to, against which relief is asked, is obsolete and defunct, in that the same has expired, to wit, on December 31, 1947, as alleged, and is therefore not a proper subject for consideration by a Court of Equity in this cause.

## III.

And for such other reasons as may be assigned at the hearing hereof.

The Baltimore Baseball and Exhibition Company, a Maryland Corporation, one of the Respondents in the above-entitled cause, without relinquishing or waiving its Demurrer to the Bill of Complaint, in answer to the Bill of Complaint exhibited against it, respectfully represents unto this Honorable Court as follows:

(1) That this Respondent neither admits nor denies the allegations as set forth in paragraph 1 of the said Bill of Complaint, but demeands strict proof thereof.

(2) That this Respondent neither admits nor denies the allegations as set forth in paragraph 2 of the said Bill of Complaint, but demands strict proof thereof.

(3) That the Respondent admits the allegations of paragraph 3, but further says that the Department of Recreation and Parks have additional powers, as set forth in the Baltimore City Charter (as ratified by the voters in November, 1946), Paragraph 96, sub-section 6 (g), p. 78, in that they now have absolute power, under the provisions of said Charter, to charge and collect fees for the use of facilities and rentals for the use of park property controlled by it.

(4) That this Respondent admits the allegations as set forth in Paragraph 4 of the said Bill of Complaint.

(5) That this Respondent admits the allegations contained in the fifth paragraph of the Bill of Complaint referring to the location and area of the Baltimore Stadium; but it denies that since its construction the Baltimore Stadium has been only intermittently and infrequently used for the playing of non-professional games and the staging of various exhibitions, and alleges that the Baltimore Stadium was built for the purpose of furnishing to the citizens of Baltimore a large stadium for the holding of athletic contests, exhibitions and other forms of entertainment, both professional and non-professional, where large numbers of citizens of Baltimore could congregate for the purpose of witnessing athletic events, and that since its construction it has been frequently used for these purposes throughout a period of twenty-five years. Efforts have been made by the municipal government, the Park Board, and by the citizens and taxpayers of Baltimore to put it to a more extensive use so that it would be self-sustaining and profitable to the City of Baltimore.

(6) That in answer to paragraph 6 of the Bill of Complaint this Respondent says that the Baltimore Stadium was originally constructed in 1922 upon ground

that was entirely undeveloped, and which, in fact, was for the most part an abandoned, or unused brickyard; that construction upon the said Stadium was started in April of 1922, and that it was finished by December 2, 1922, upon which date a football game between teams representing the Army and the Marine Corps was played before a gathering of approximately 70,000 people; that it was then, and thereafter, announced by responsible persons in the City government and in the public press that the Stadium was to be more and more used for the playing of athletic contests in Baltimore to be witnessed by large gatherings of people; that when the Stadium was built there were no residences in its immediate vicinity and that all of the development that has taken place in the area surrounding the Stadium has been since the Stadium was built and put into use. This Respondent denies that the use of the Stadium has been intermittent and infrequent. It admits that most events held there prior to July 1944 were held in the daytime and on week-ends, but it asserts that long prior to July 1944 six large light poles were erected, three upon the top of the East stands and three upon the top of the West stands, with large batteries of electric lights, and that thereafter the Stadium was used at nights on many occasions, and that these lights were constructed in June 1939.

(7) That in answer to paragraph 7 of said Bill of Complaint this Respondent admits that it controlled and operated a baseball team in a ball park known as "Oriole Park", at Greenmount Avenue and 29th Street, at which place it had conducted the business of operating a baseball team for many years and that it played baseball games at nights under flood lights at that location. It further admits that on the 4th of July, 1944, a serious fire occurred, which destroyed all of the stands and facilities of said baseball park, and that the Baltimore Oriole baseball team had no available location upon which to play the remaining home games of its schedule.

It admits that the Honorable Theodore R. McKeldin, then Mayor of the City, offered the facilities of the Baltimore Stadium to it, but it has no knowledge that such an offer was made without consulting the Board of Park Commissioners, and if that allegation is deemed to be material to the issues involved, it demands strict proof thereof.

(8) That this Respondent denies that the use and occupancy of the Baltimore Stadium by it resulted in many changes, renovations and alternations being made in the physical structure of the Baltimore Stadium, and asserts that most of the changes or alterations that were made were the construction of a baseball diamond on the playing field, the erection of a scoreboard within the Stadium, players' benches, a wire back-stop, and the construction of a small booth for radio broadcasting and a larger booth as a press-box, and that each Fall, after the playing season had come to an end, these structures were removed, and the playing field was resodded and put back into condition for the playing of football. That in addition, two steel poles were inserted in the playing field, which bore reflector lights that were focussed in a southerly direction upon the infield so as to light home plate, the pitcher's box, and the various infield positions, and that each Fall these poles and lights were removed until the year 1947, when they were relocated through an agreement with the Board of Park Commissioners, representatives of the United States Naval Academy, which institution has also used the Stadium for a number of years, representatives of a professional football team that had made arrangements for the use of the Stadium, and with this Respondent, so that said light poles could remain in their present position.

(9) This Respondent denies that the area surrounding the Stadium is residential in fact, and that it has been zoned exclusively for residential use, and says that the immediate area surrounding the Stadium, bounded by

33rd Street, Ellerslie Avenue, 36th Street and Ednor Road, is property owned by the City of Baltimore under the control of the Park Board, and has been held as such prior to the State Zoning Enabling Act and Baltimore City Zoning Ordinances, effective June 1, 1927. Your Respondent further says that no houses were built in the area surrounding the Stadium until after the Stadium had been built and put into use, and that every house which was built and later bought as a residence in the area surrounding the Stadium was built or bought by persons who either knew, or could by exercising reasonable diligence have known, of the existence of the Baltimore Stadium, the purpose for which it was built, and the use to which it has been put.

(10) This respondent denies the allegations as set forth in paragraph 10 of the said Bill of Complaint, and denies that the playing of baseball games during the 1944 playing season, or during any of the seasons in which this Respondent has used the Stadium, has caused an intolerable or unbearable nuisance, or has prevented the reasonable use and occupancy of their homes by the Complainants; that it admits that some of the complainants and others residing in the vicinity of the Stadium conferred with your Respondent on several occasions, and that conferences between representatives of the neighborhood, of the Board of Park Commissioners and of this Respondent were held from time to time, not in an effort to minimize nuisances, the existence of which are specifically denied, but to satisfy complaints that were made with respect to the number of night baseball games to be played each week, the starting and closing time of said night games, the reduction in the volume of the loud speakers for making announcements, the furnishing of more police protection in the vicinity of the Stadium and for the direction of traffic, together with the taking of appropriate steps for the control of dust, and that these complainants and others were, in March and April, 1945, before the opening of the 1945



baseball season, represented by counsel, and met with officers of this Respondent and representatives of the Board of Park Commissioners with respect to the doing of certain things which it was felt could be done to meet various complaints and demands of these complainants and others similarly situated, and that purely for the purpose of endeavoring to reach a mutually agreeable compromise of the matters that have been discussed, and of complaints and demands that had been made and without prejudice, this Respondent made an offer to do certain things that had been demanded of it by these complainants and others, but that said offer was rejected and said proposals were not accepted, in spite of which fact this Respondent has always endeavored to alleviate the conditions within its power which these complainants and others complained of. That further answering the same paragraph, this Respondent emphatically denies that the baseball games have drawn to the Baltimore Stadium an element of persons who have a reckless disregard for the property and privacy rights of these complainants or other residents of the area, but it asserts that the patrons who attend the games are respectable, well-behaved citizens of Baltimore who evince an active or real interest in the game of baseball, and particularly in the competition of the Baltimore team with teams of other cities in the International League, and who are citizens of this City and State, altogether entitled to enjoy watching their home team engage in the national pasttime of baseball.

(11) That this Respondent admits that ever since 1944 the Baltimore Orioles have played their home games in the Baltimore Stadium and that until the citizens of Baltimore, at a general election, voted in favor of a loan to provide funds for the reconstruction of a stadium, and a Committee appointed by the Mayor of Baltimore decided that a new stadium should be built upon the site of the present one, this Respondent had no intention of remaining permanently in the Stadium, but that if a stadium is reconstructed on the present site that is

adequate for the playing of International League baseball games, this Respondent will be desirous of entering into a license or lease permitting it to hold its baseball games there.

(12) That this Respondent admits that on April 2, 1947, it entered into an agreement with the Board of Park Commissioners for the use of the Stadium, but it denies that said agreement was a lease of the said Stadium. It believes that the conformed copy of said agreement, as set forth in Complainants' Exhibit No. 16, is a correct copy.

(13) In answer to paragraph 13 of the said Bill of Complaint, this Respondent states that during the 1947 playing season it played two pre-season exhibition games and seventy-six regularly-scheduled International League games, and not seventy-two, as stated in said Complaint; that the first of these games was played on the 8th day of April, 1947, and the last on the 31st day of August, 1947; but that these seventy-eight games were played in fifty-five separate days, which days, however, were not all consecutive; that night games were played on forty-one dates, while the remaining games were played on thirteen Sundays and one on a Tuesday afternoon. This Respondent denies that during this period, nor at any time, has it had exclusive use of the Baltimore Stadium; it asserts that other baseball games were played in the Stadium during this period and that the Stadium was put to many other uses and events, including Navy, professional and high school football games and other events, which attracted large gatherings of people. This Respondent admits that the 1948 playing season for the playing of professional baseball games in the International League in Baltimore will cover approximately the same period of time and will call for the playing of approximately the same number of games.

(14) This Respondent denies that the agreement of April 2, 1947 is in fact, or in law, an attempted exclusive

leasing of the Baltimore Stadium, and it denies that it exclusively uses or occupies the playing field, facilities or the offices on the second floor of the Administration Building of the Stadium, to the exclusion of all others; and further answering said paragraph it says that the said playing field, facilities and offices are used by all other persons, organizations, institutions or corporations that are permitted by the City of Baltimore or its Departments or Agencies to stage contests or events in the Stadium, and that said offices have been used by the very complainants in this cause for the holding of neighborhood and protest meetings.

(15) In answer to paragraph 15 of said Bill of Complaint this Respondent says that it has made no secret of its intentions to secure permission to use the Baltimore Stadium for the holding of its baseball games during the 1948 season, nor of its hope that a new and adequate structure for the playing of baseball games will be built upon the present site, and that if such a stadium is erected this Respondent hopes and expects to be given an opportunity to negotiate an agreement for the playing of its future games there; but it denies that such desire is in violation of any understanding. It denies that it has ever committed any nuisances or conducted any illegal activities or that it now has or ever had any intention to do so. And further answering said Bill of Complaint it says that when the solicitor for these complainants asked this Respondent whether or not it intended to seek a renewal of an agreement permitting its use and occupancy of the Stadium, it promptly and definitely stated that its intentions were to do so.

(16) This Respondent admits the allegations contained in paragraph 16 of said Bill of Complaint.

(17) In answer to paragraph 17 of the said Bill of Complaint, this Respondent denies each and every of the allegations therein contained and demands strict proof thereof. And further answering said paragraph,

this Respondent says that the complainants knew, or could have known by the exercising of reasonable care; that the Stadium was erected for the purpose of drawing large numbers of people to witness athletic contests and events, and that large numbers of people would be attracted to the Stadium, many of whom would come in their automobiles; that the streets of Baltimore City are for the use of the public generally and not solely for the use of the residents of any neighborhood, and this Respondent says that it has no control, and can exercise no control, over traffic in Baltimore City, or in the immediate vicinity of the place where its baseball games are played, as this traffic is on public streets and is, and necessarily must be, controlled by the traffic laws of the City and State, and regulated by the Police Department; that with respect to the use of the parking area adjacent to the Stadium it says that this area is in fact a parking area, and when the Stadium was built it was set aside and apart as a parking area for the convenience of citizens who might come to witness events at the Stadium in their automobiles, and as a suitable, safe and convenient place for the parking of automobiles, and that this parking area is used for that purpose by the patrons of its games; that it has not been under exclusive control of this Respondent, but this Respondent and the representatives of the Board of Park Commissioners, and of the Department of Recreation and Parks of Baltimore City, have endeavored to minimize the amount of dust complained of by the complainants, and that the Board of Park Commissioners has acquired a watering truck and has used it when it seemed necessary to sprinkle the parking area and allay the dust; and this Respondent further says that the citizens of Baltimore who attend its baseball games are not boisterous people and do not create so much noise as to make it impossible for the complainants to enjoy the reasonable and proper use of their respective homes; that the people who attend the baseball games have a perfect right to use the adjoining

streets, and, indeed, any of the streets and sidewalks of Baltimore City for the purpose of ingress and egress to and from the Stadium, and that this Respondent has no control, nor can it, indeed, attempt to exercise any control, over people who move upon the streets of Baltimore as pedestrians or as operators of motor vehicles; that with respect to the loud speaker system at the Baltimore Stadium, this Respondent says that in the early part of the 1947 playing season it received a few complaints from persons living in the vicinity of the Stadium, and it has, through its officers, employees and agents, made adjustments so as to reduce the volume of the sound or any harshness of vibration and to direct the sound toward the playing field and the foot of the stands, and that the loud speaker system was tested and the operators have been instructed as to points on the dial within the limits of which it is to be operated, and that after such changes were made no complaints were received by this Respondent from any persons living in the neighborhood of the Stadium about any noises occasioned by the loud speakers; that with respect to the floodlights to which the complainants object in said paragraph, this Respondent says that, as stated in paragraph 6 of this Answer, five years before it began playing baseball games in the Baltimore Stadium six large light poles with batteries of electric lights had been erected upon the top of the stands and had been used at nights on many occasions; that it erected and has maintained two light poles with batteries of electric lights focused on the infield; that the average candle foot power of the lighting system at the Baltimore Stadium is twenty, as compared with a minimum of one hundred in other baseball parks where modern lighting systems have been installed, and that the floodlights erected and maintained by this Respondent do not throw light, either reflected or direct, into the homes of anyone, but are directed solely upon the playing field; that this Respondent says that there is no difference between the types of people

who attend baseball and those who attend various other games, events and exhibitions at the Stadium; that it has urged the spectators of its games, through the use of prizes given at various times during the season, to carry home their scorecards and not to throw them away, either in the Stadium or outside, and that the matter of destruction of property and shrubbery, which the Complainants complain of, is a matter exclusively within the power of the Police Department of Baltimore City to control, and is not under the control of this Respondent. This Respondent says that its occupancy and use of the Baltimore Stadium has not resulted and will not result in a general deterioration of the property values in the neighborhood, and it asserts that since its occupancy of the Stadium property values in the neighborhood have risen and there have been many persons who have purchased property in the immediate vicinity at prices in excess of those which the vendors thereof have paid for such properties.

(18) In answer to paragraph 18 of the said Bill of Complaint, your Respondent admits that the Department of Recreation and Parks and the Baltimore Baseball and Exhibition Company now have under consideration, or are about to have under consideration, a renewal of the present agreement, or another similar in nature or effect, whereby the Baltimore Baseball and Exhibition Company seeks to use, and the Department of Recreation and Parks intends to permit the use of, the Baltimore Stadium for the playing season of 1948, but it denies that the complainants will suffer irreparable damage to their property and be subjected to any unbearable and intolerable nuisance as a result of such use thereof.

(19) In answer to paragraph 19 of the said Bill of Complaint, this Respondent admits that the Baltimore Stadium is built upon property acquired by the Mayor and City Council of Baltimore by virtue of the deeds enumerated in said paragraph 19, and that said prop-



erty has been and is now used for the benefit of the public, but it denies each and every other allegation made in said paragraph 19. Further answering said paragraph 19, this Respondent says that the execution, or agreement to execute an agreement in favor of the Baltimore Baseball and Exhibition Company for the 1948 season is not illegal, void and ultra vires of the powers of the Department of Recreation and Parks, in that it does have such power by virtue of the Baltimore City Charter, effective May 20, 1947, paragraph 96, sub-section (g), p. 78; nor will said exercise of said power permit the leasing or use of public property for private gain or profit and, therefore, violate any principle of law that such property cannot be devoted to a private use and, therefore, against public policy, as said use by the Baltimore Baseball and Exhibition Company is not the devotion of public property to a private use within the meaning of said principle of law as propounded by the complainants herein, nor will the use of said Stadium by the Baltimore Baseball and Exhibition Company be against public policy and contrary to the purpose for which said Stadium was acquired, as the Stadium was acquired for the holding of athletic contests and events for the enjoyment of the general public as spectators thereof, nor is the use of said Stadium by the Baltimore Baseball and Exhibition Company a commercial enterprise, forbidden by law, in an area zoned for residential use, as the Stadium and its immediate surrounding property was acquired and erected prior to the enactment of the Zoning Laws applicable thereto.

(20) In answer to paragraph 20, this Respondent says that, for reasons already stated in other parts of this Answer, the complainants are not entitled to restrain the Respondents as prayed, and further say that this Respondent has not and is not attempting to convert and use a public park of the City of Baltimore for any unlawful purposes, as is alleged by the complainants in other paragraphs of their Bill of Complaint.



(21) In answer to paragraph 21 of the said Bill of Complaint, this Respondent denies the allegations contained therein.

(22) And further answering the Bill of Complaint this Respondent states that the Baltimore Municipal Stadium was built by the Board of Park Commissioners in 1922 upon land that was theretofore entirely unimproved, which, in fact, was an abandoned brickyard, and that there were no houses or development of any kind in the immediate vicinity, either to the south, west, north or east. The citizens of Baltimore did not protest the selection of that site for the building of the Stadium, and there was, in fact, a well-founded hope expressed at that time that the improvement of this site by the construction of the Stadium for the purpose of bringing athletic contests and other events there, would induce builders and home owners to improve the surrounding property with attractive homes that would add to the taxable basis of all the property in the neighborhood; that, as heretofore said, the Stadium was constructed for the purpose of providing a suitable place where the citizens of Baltimore could congregate in large crowds to witness athletic contests, track meets, games of football and baseball and other events of an athletic, civic, religious, patriotic, recreational or public nature for the recreation, education and enjoyment of the citizens of Baltimore; that the Stadium was completed in the late Fall of 1922, and, on December 2d of that year it was inaugurated before a crowd of more than 70,000 spectators who came there to see an athletic contest between football teams of the Army and of the Marine Corps; that from that date on it has been used for the holding of such athletic contests, amateur, scholastic, collegiate and professional, and for many other purposes, as will be seen from the schedule of the same attached hereto and asked to be taken as "Respondent's Exhibit No. 1"; that every residence in the immediate vicinity and the residence of each of the complainants

in this cause were built and purchased since the Stadium was erected, and since it was either publicly known or could, by the exercise of reasonable diligence, have been ascertained that the Stadium was intended to be extensively used for the purposes enumerated herein: That the Stadium originally, in 1922, cost \$209,323.47 to build; that, thereafter, in 1923, 1924 and 1925, additional seats were added, to bring the cost to \$574,710.46; that, thereafter, by the end of 1935, additional work had been done on the Stadium to bring its total cost, including land, to \$669,139.21.

The gross revenue received by the Board of Park Commissioners for the use of the Stadium has been as follows:

1922.....	\$ 13,602.12	1935.....	\$ 7,566.68
1923.....	\$ 26,063.07	1936.....	\$ 11,343.26
1924.....	\$ 48,733.07	1937.....	\$ 6,745.11
1925.....	\$ 5,046.63	1938.....	\$ 8,218.73
1926.....	\$ 6,138.98	1939.....	\$ 19,314.38
1927.....	\$ 6,085.90	1940.....	\$ 11,461.57
1928.....	\$ 5,581.56	1941.....	\$ 22,711.07
1929.....	\$ 8,984.84	1942.....	\$ 32,706.09
1930.....	\$ 14,430.92	1943.....	\$ 29,365.93
1931.....	\$ 7,624.32	1944.....	\$ 91,259.56
1932.....	\$ 1,829.87	1945.....	\$ 83,896.39
1933.....	\$ 5,953.93	1946.....	\$141,829.52
1934.....	\$ 1,590.08	1947.....	\$123,190.51

As will be seen from the above statement, although the gross receipts at the Stadium were substantial for the first few years of its use, they rapidly decreased and many efforts were made to increase the use of the Stadium and thereby increase the revenue derived therefrom, so that the structure could be maintained in proper and safe condition. A baseball game between the American League Professional Baseball Team, representing Washington, and the Baltimore Orioles was played there; Army drills and exhibits, fireworks, concerts and many other events were held. Efforts continued to find

more uses and more extensive use for the Stadium, all to the end of putting it upon a paying basis. The installation of large floodlights in 1939 by the Board of Park Commissioners made it feasible for night use and added to the number of events that could be held there, and also added to the revenue derived by the City therefrom, but still the revenue was not sufficient to support the structure and keep it in a proper condition of maintenance and it became known as "Lonely Acres", "The Vast Void", and "Baltimore's White Elephant". Prior to the installation of lights the gross receipts from the Stadium in 1934 were only \$1,590.08, and the year before the lights were installed the gross receipts were only \$8,218.73. After the installation of lights in 1939 the gross revenue rose to \$19,314.38, and in 1943 to 29,365.93, but still the receipts were not sufficient for proper maintenance, and the Stadium was rapidly becoming in a situation where it would soon be a burden to the taxpayers of the City.

On July 16, 1944, following the fire which destroyed Oriole Park, this Respondent was licensed to use the Stadium for the playing of its professional International League baseball games and has played its games there each season since, with the result that the revenue received by the Board of Park Commissioners in the following years was as set forth below:

Year	Gross Revenue Received by the Board of Park Commissioners	Amount of Revenue Attributable to Playing of Pro- fessional Baseball	Percentage of Gross Revenue Attributable to Professional Baseball
1944	\$ 91,259.56	\$ 53,133.89	58%
1945	\$ 83,896.39	\$ 44,493.89	53%
1946	\$141,829.52	\$104,369.06	74%
1947	\$123,190.51	\$ 48,677.87	39%

That the General Assembly of Maryland, in its 1947 Session, passed a Bill authorizing the City of Baltimore to submit to the voters for approval a loan of \$2,500,000.00 for the purpose of improving, renovating or constructing

the Baltimore Municipal Stadium or a stadium on some other site; and that this loan was submitted to the voters at the general election held in 1947. The loan was approved by the qualified voters of Baltimore City in an election year when other loans for important municipal improvements were disapproved by the qualified voters; and that thereafter the Mayor of Baltimore City appointed a Commission to consider what should be done with respect to the Baltimore Municipal Stadium, and that Commission, after deliberation, recommended that a new and improved stadium be erected upon the present site, in which games of professional baseball, football and other athletic events and events of a civic, patriotic and public nature could be held; and that plans for the construction of an improved stadium are being made and this Respondent understands that arrangements are being made to proceed with said work.

Therefore this Respondent alleges and charges that the complainants, herein, by their Bill of Complaint filed in this Honorable Court, are seeking not merely to have this Respondent restrained from making an arrangement with the Department of Recreation and Parks for the playing of its 1948 baseball games in the Municipal Stadium, but in reality are seeking to block and circumvert the plans of the administration of Baltimore City for the construction and improvement of a much needed recreational facility in the City, and to block and circumvert the will of the qualified voters of the City of Baltimore as expressed by their ballots in approving said loan. And this Respondent further says that ever since it has played its professional baseball games in the Stadium the values of the surrounding residential property have not depreciated, but, on the other hand, they have materially appreciated, and that such appreciation in value is not less proportionately than the appreciation of similar residential property in other comparable sections of the City of Baltimore.

AND having fully answered, this Respondent prays that it may be hence dismissed with its proper costs.

DEMURRER AND ANSWER OF DEPARTMENT OF  
RECREATION AND PARKS

(Filed 20th January, 1948)

To the Honorable, the Judge of said Court:

Robert Garrett, President, J. Marshall Boone, Mrs. Howard W. Ford, S. Lawrence Hammerman, Bernard Harris, R. Wilburt Marsheck, Weston B. Scrimger, in their official capacities and comprising and constituting the Department of Recreation and Parks of Baltimore City, Respondents, demur to the Bill of Complaint filed against them in the above entitled case, and to each and every paragraph thereof alleged as a basis for the relief prayed, as set forth in the first and second prayers of said Bill, and assign therefor the following reasons:

## I

That the relief prayed under Prayer No. 1 of the Bill of Complaint should be refused for the following reasons:

(a) That it is too vague, general and indefinite to warrant this Court of Equity granting the relief prayed.

(b) That the Bill of Complaint alleges as ground for the relief prayed under Prayer No. 1 that these respondents have no power to enter into an agreement directly or indirectly permitting the use and occupancy of the Baltimore Stadium by the Baltimore Baseball and Exhibition Company, in that said agreement would be illegal, void and ultra vires of the powers of the said Department of Recreation and Parks; these respondents, however, assert: (1) that they do have power to enter into such an agreement by virtue of the Baltimore City Charter, effective May 20, 1947, Paragraph 96, sub-section (g), p. 78; (2) that the grant and exercise of said power is not illegal, void and ultra vires, in that it does not permit the leasing or use of public property for private gain or profit, as alleged, and, therefore, does

not violate the principle of law that public property cannot be devoted to a private use, nor is it against public policy and contrary to the purposes for which the said Stadium was acquired; and (3) that it is not illegal, void and ultra vires in that it will permit the operation of a commercial enterprise in an area zoned for residential use.

## II

That the relief prayed under Prayer No. 2 of the Bill of Complaint should be refused for the following reasons:

(a) For the same reasons as set forth in Paragraph 1 (b) of this Demurrer.

(b) That the agreement of April 2, 1947, referred to, against which relief is asked, is obsolete and defunct, in that same has expired, to wit, on December 31, 1947, as alleged, and is, therefore, not a proper subject for consideration by this Court of Equity.

## III

And for such other reasons as may be assigned at the hearing hereof.

Robert Garrett, President, J. Marshall Boone, Mrs. Howard W. Ford, S. Lawrence Hammerman, Bernard Harris, R. Wilburt Marsheck, Weston B. Scrimger, in their official capacities and comprising and constituting the Department of Recreation and Parks of Baltimore City, Respondents, without relinquishing or waiving their Demurrer to the aforementioned Bill of Complaint, add this, their Answer to the said Bill of Complaint, as follows:

1. That these respondents neither admit nor deny the allegations as set forth in Paragraph 1 of the said Bill of Complaint, but demand strict proof thereof.

2. That these respondents neither admit nor deny the allegations as set forth in Paragraph 2 of the said Bill of Complaint, but demand strict proof thereof.

3. That these respondents admit the allegations of Paragraph 3, but further say that they have additional powers as the Department of Recreation and Parks, as set forth in the Baltimore City Charter, effective May 20, 1947, Paragraph 96, sub-section (g), p. 78, in that they now have absolute power, under the provisions of said Charter, to charge and collect fees for the use of facilities and rentals for the use of park property controlled by it.

4. That these respondents neither admit nor deny the allegations as set forth in Paragraph 4 of the said Bill of Complaint, but demand strict proof thereof.

5. That these respondents admit the allegations contained in the fifth paragraph of the Bill of Complaint, referring to the location and area of the Baltimore Stadium; but they deny that since its construction the Baltimore Stadium has been only intermittently and infrequently used for the playing of non-professional games and the staging of various exhibitions, and allege that the Baltimore Stadium was built for the purpose of furnishing to the citizens of Baltimore a large stadium for the holding of athletic contests, exhibitions and other forms of entertainment, both professional and non-professional, where large numbers of citizens of Baltimore could congregate for the purpose of witnessing athletic events, and that since its construction it has been frequently used for these purposes throughout a period of twenty-five years. Efforts have been made by the municipal government, the Park Board, and by the citizens and taxpayers of Baltimore to put it to a more extensive use so that it would be self-sustaining and profitable to the City of Baltimore.



6. That in answer to Paragraph 6 of the Bill of Complaint, these respondents say that the Baltimore Stadium was originally constructed in 1922 upon ground that was entirely undeveloped and which, in fact, was for the most part an abandoned, or unused, brick yard; that construction upon the said Stadium was started in April, of 1922, and that it was finished by December 2, 1922, upon which date a football game between teams representing the Army and the Marine Corps was played before a gathering of approximately 70,000 people; that it was then, and thereafter, announced by responsible persons in the City government and in the public press that the Stadium was to be more and more used for the playing of athletic contests in Baltimore, to be witnessed by large gatherings of people; that when the Stadium was built there were no residences in its immediate vicinity, and that all of the development that has taken place in the area surrounding the Stadium has been since the Stadium was built and put into use. These respondents deny that the use of the Stadium has been intermittent and infrequent. They admit the most events held there prior to July, 1944, were held in the daytime and on week-ends, but they assert that long prior to July, 1944, six large light poles were erected, three upon the top of the East stands and three upon the top of the West stands, with large batteries of electric lights, and that thereafter the Stadium was used at nights and on many occasions, and that these lights were constructed in June, 1939.

7. That these respondents neither admit nor deny the allegations as set forth in Paragraph 7 of the said Bill of Complaint, except to admit the allegation that the Mayor of Baltimore City, then the Honorable Theodore R. McKeldin, offered the facilities of the Baltimore Stadium to the owners and managers of the Baltimore Baseball and Exhibition Company so that said baseball Club could finish the remainder of the games scheduled during the 1944 season, and

further say that said action of the said former Mayor McKeldin was subsequently ratified by the Board of Park Commissioners.

8. That these respondents deny that the use and occupancy of the Baltimore Stadium by the Baltimore Baseball and Exhibition Company resulted in many changes, renovations and alterations being made in the physical structure of the Baltimore Stadium, and assert that most of the changes or alterations that were made were the construction of a baseball diamond on the playing field, the erection of a scoreboard within the Stadium, players' benches, a wire backstop, and the construction of a small booth for radio broadcasting and a larger booth as a press box, and that each fall after the baseball playing season had come to an end these structures were removed, and the playing field was resodded and put back into condition for the playing of football. That, in addition, two steel poles were inserted in the playing field, which bore reflector lights that were focused in a southerly direction upon the infield so as to light home plate, the pitcher's box, and the various infield positions, and that each fall these poles and lights were removed until the year 1947, when they were relocated through an agreement with the Baltimore Baseball and Exhibition Company, representatives of the United States Naval Academy, which institution has also used the Stadium for a number of years, representatives of a professional football team that had made arrangements for the use of the Stadium, and with these respondents, so that said light poles could remain in their present position.

9. These respondents deny that the area surrounding the Stadium is residential in fact, and that it has been zoned exclusively for residential use, and say that the immediate area surrounding the Stadium—bounded by 33rd Street, Eilerslie Avenue, 36th Street and Ednor Road—is property owned by the City of Baltimore, under the control of the Park Board, and has been held

as such prior to the State Zoning Enabling Act and Baltimore City Zoning Ordinances, effective June 1, 1927. Your respondents further say that no houses were built in the area surrounding the Stadium until after the Stadium had been built and put into use, and that every house which was built and later bought as a residence in the area surrounding the Stadium was built or bought by persons who either knew, or could by exercising reasonable diligence have known, of the existence of the Baltimore Stadium, the purposes for which it was built, and the use to which it has been put.

10. These respondents deny the allegations as set forth in Paragraph 10 of the said Bill of Complaint, but deny that the playing of baseball games during the 1944 playing season, or during any of the seasons in which the Baltimore Baseball and Exhibition Company has used the Stadium, has caused an intolerable or unbearable nuisance or has prevented the reasonable use and occupancy of their homes by the complainants; that they admit that some of the complainants and others residing in the vicinity of the Stadium conferred with your respondents on several occasions, and that conferences between representatives of the neighborhood, of the Baltimore Baseball and Exhibition Company and of these respondents were held from time to time not in an effort to minimize nuisances, the existence of which are specifically denied, but to satisfy complaints that were made with respect to number of night baseball games to be played each week, the starting and closing time of said night games, the reduction in the volume of the loud speakers for making announcements, the furnishing of more police protection in the vicinity of the Stadium and for the direction of traffic, together with the taking of appropriate steps for the control of dust, and that these complainants and others were, in March and April, 1945, before the opening of the 1945 baseball season, represented by counsel, and met with officers of the Baltimore Baseball and Exhibition Company and representatives of these respondents with respect to the doing

of certain things, which it was felt could be done to meet various complaints and terms of these complainants and others similarly situated, and that purely for the purpose of endeavoring to reach a mutually agreeable compromise of the matters that have been discussed and of complaints and demands that had been made and without prejudice, the Baltimore Baseball and Exhibition Company made an offer to do certain things that had been demanded of it by these complainants and others, but that said offer was rejected and said proposals were not accepted, in spite of which fact the Baltimore Baseball and Exhibition Company and these respondents have always endeavored to alleviate many of the conditions within its power which these complainants and others complained of. That further answering the same paragraph, these respondents emphatically deny that the baseball games have drawn to the Baltimore Stadium an element of persons who have a reckless disregard of the property and privacy rights of these complainants or other residents of the area, but these respondents assert that the patrons who attend the games are ordinary, well-behaved citizens of Baltimore who evince an active or real interest in the game of baseball and particularly in the competition of the Baltimore team with teams of other cities in the International League and who are citizens of this City and State altogether entitled to enjoy watching their home team engage in the national pastime of baseball.

11. That these respondents admit that the Baltimore Orioles have played their home games at the Baltimore Stadium since the summer of 1944 and until recently, but neither admit nor deny all other allegations as contained in Paragraph 11, but demand strict proof of same.

12. In answer to Paragraph 12 of the said Bill of Complaint, these respondents admit that on April 2, 1947 the Board of Park Commissioners entered into an agreement with the Baltimore Baseball and Exhibition Company for the use of the Stadium for the period stated,

but deny that said agreement was a lease, as alleged therein.

13. In answer to Paragraph 13 of the said Bill of Complaint, these respondents state that during the 1947 playing season the Baltimore Baseball and Exhibition Company played two pre-season exhibition games and seventy-six regularly scheduled International League games, and not seventy-two as stated in said complaint. That the first of these games was played on the 8th day of April, 1947, and the last on the 31st day of August, 1947, but that these seventy-eight games were played on fifty-five separate days, which days, however, were not all consecutive. That night games were played on forty-one dates, while the remaining games were played on thirteen Sundays and one on a Tuesday afternoon. These respondents deny that during this period, or at any time, has the Baltimore Baseball and Exhibition Company had exclusive use of the Baltimore Stadium; they assert that other baseball games were played in the Stadium during this period and that the Stadium was put to many other uses and events, including Navy, professional and high school football games and other events, which attracted large gatherings of people. These respondents admit that the 1948 playing season for the playing of professional baseball games in the International League in Baltimore will cover approximately the same period of time and will call for the playing of approximately the same number of games.

14. These respondents deny that the agreement of April 2, 1947 is in fact, or in law, an attempted exclusive leasing of the Baltimore Stadium, and it denies that the Baltimore Baseball and Exhibition Company exclusively uses or occupies the playing field, facilities or the offices on the second floor of the Administration Building of the Stadium to the exclusion of all others, and further answering said paragraph they say that the said playing field, facilities and offices are used by all other persons, organizations, institutions or corpora-

tions that are permitted by them to stage contests or events in the Stadium and that said offices have been used by the very complainants in this cause for the holding of neighborhood and protest meetings.

15. In answer to Paragraph 15 of the said Bill of Complaint, these respondents neither admit nor deny it is the intention of the Baltimore Baseball and Exhibition Company to secure permission to make the Baltimore Stadium the permanent headquarters of the Baltimore Orioles, but they do admit that it is the intention of the Baltimore Baseball and Exhibition Company to secure permission to enter into an agreement for the use of the Stadium for another year, and further that it is the intention of the presently constituted Department of Recreation and Parks of the City of Baltimore to enter into negotiations with the Baltimore Baseball and Exhibition Company looking toward the execution of an agreement covering the 1948 playing season, but these respondents deny every other allegation contained in said paragraph.

16. These respondents admit the allegations contained in Paragraph 16 of the said Bill of Complaint.

17. In answer to Paragraph 17 of the said Bill of Complaint, these respondents deny each and every of the allegations therein contained and demand strict proof thereof, and, further answering said paragraph, these respondents say that the complainants knew and could have known by the exercising of reasonable care that the Stadium was erected for the purpose of drawing large numbers of people to witness athletic contests and events, and that large numbers of persons would be attracted to the Stadium, many of whom would come in their automobiles; that the streets of Baltimore City are for the use of the public generally and not solely for the use of the residents of any neighborhood, and these respondents say that they have no control, and can exercise no control, over traffic in Baltimore



City, or in the immediate vicinity of the place where the baseball games are played as this traffic is on public streets and is and necessarily must be controlled by the traffic laws of the City and State; that with respect to the use of the parking area adjacent to the Stadium they say that this area is in fact a parking area, and when the Stadium was built it was set aside and apart as a parking area for the convenience of the citizens who might come to witness events at the Stadium in their automobiles, and as a suitable, safe and convenient place for the parking of automobiles, and that this parking area is used for that purpose by the patrons of the events; that it has not been under exclusive control of these respondents, but these respondents and their predecessors, the Board of Park Commissioners, and representatives of the Baltimore Baseball and Exhibition Company have endeavored to minimize the amount of dust complained of by the complainants, and that these complainants have acquired a watering truck and have used it when it seemed necessary to sprinkle the parking area and allay the dust; and these respondents further say that the citizens of Baltimore who attend the baseball games are not boisterous people and do not create so much noise as to make it impossible for the complainants to enjoy the reasonable and proper use of their respective homes; that the people who attend the baseball games have a perfect right to use the adjoining street and, indeed, any of the streets and sidewalks of Baltimore City, for the purpose of ingress or egress to and from the Stadium, and that these respondents have no control, nor can they, indeed, attempt to exercise any control, over people who move upon the streets of Baltimore, as pedestrians or as operators of motor vehicles; that with respect to the loud speaker system at the Baltimore Stadium, these respondents say that in the early part of the 1947 playing season they, or their agents and employees, receiving a few complaints from persons living in the vicinity of the Stadium, made adjustments so as to reduce the loudness



of the sound or any harshness of vibration and to direct the sound toward the playing field and the foot of the stands, and that the loud speaker system was tested and the operators have been instructed as to points on the dial within the limits of which it is to be operated, and that after such changes were made no complaints were received by these respondents, their agents or employees, from any persons living in the neighborhood of the Stadium about any noises occasioned by the loud speakers; that with respect to the floodlights to which the complainants object in said paragraph, these respondents say that, as stated in Paragraph 6 of this Answer, five years before the Baltimore Baseball and Exhibition Company began playing baseball games in the Baltimore Stadium six large light poles with batteries of electric lights had been erected upon the top of the stands and had been used at nights on many occasions, that the Baltimore Baseball and Exhibition Company erected and has maintained two large light poles with batteries of electric lights focused on the infield and on the playing field and that none of the lights reflected anywhere else; that the average candle foot power of the lighting system at the Baltimore Stadium is twenty, as compared with a minimum of one hundred in other baseball parks where modern lighting systems have been installed, and that none of said floodlights throw light, either reflected or direct, into the homes of anyone, but are directed on the playing field; these respondents say that there is no difference between the types of people who attend baseball, and those who attend various other games, events and exhibitions at the Stadium; that the matter of deterioration of property and shrubbery to which the complainants object is a matter not under the control of these respondents; that these respondents say that the occupancy and use of the Baltimore Stadium by the Baltimore Baseball and Exhibition Company has not resulted, nor will it result, in a general deterioration of the property values in the neighborhood, and they assert that since

the above-mentioned use and occupancy, values in the neighborhood have risen.

18. In answer to Paragraph 18 of the said Bill of Complaint, your respondents admit that the Department of Recreation and Parks and the Baltimore Baseball and Exhibition Company have now under consideration, or are about to have under consideration, a renewal of the present agreement, or another similar in nature or effect, whereby the Baltimore Baseball and Exhibition Company seeks to use, and the Department of Recreation and Parks intends to permit the use of, the Baltimore Stadium for the playing season of 1948, but denies that the complainants will suffer irreparable damage to their property and be subjected to any unbearable and intolerable nuisance as a result of the use thereof.

19. In answer to Paragraph 19 of the said Bill of Complaint, these respondents admit that the Baltimore Stadium is built upon property acquired by the Mayor and City Council of Baltimore by virtue of the deeds enumerated in said Paragraph 19, and that said property has been and is now used for the benefit of the public, but deny each and every other allegation made in said Paragraph 19; further answering said Paragraph 19, these respondents say that the execution or agreeing to execute an agreement in favor of the Baltimore Baseball and Exhibition Company for the 1948 season is not illegal, void and ultra vires of the powers of your respondents, in that they do have such power by virtue of the Baltimore City Charter, effective May 20, 1947, Paragraph 96, sub-section (g), p. 78, nor will said exercise of said power permit the leasing or use of public property for private gain or profit and, therefore, violate any principle of the law that such property cannot be devoted to a private use and, therefore, against public policy, as said use by the Baltimore Baseball and Exhibition Company is not the devotion of public property to a private use within the meaning of said principle

of law as propounded by the complainants herein, nor will the use of said Stadium by the Baltimore Baseball and Exhibition Company be against public policy and contrary to the purpose for which said Stadium was acquired, as the Stadium was acquired for the holding of athletic contests and events for the enjoyment of the general public as spectators thereof, nor is the use of said Stadium by the Baltimore Baseball and Exhibition Company a commercial enterprise, forbidden by law, in an area zoned for residential use, as the Stadium and its immediate surrounding property was acquired and erected prior to the enactment of the Zoning Laws applicable thereto.

20. In answer to Paragraph 20, these respondents say that, for reasons already stated in other parts of this Answer, the complainants are not entitled to restrain these respondents as prayed, and further say that these respondents have not and are not attempting to convert and use a public park of the City of Baltimore for any unlawful purposes, as is alleged by the complainants in other paragraphs of their Bill of Complaint.

21. In answer to Paragraph 21 of the said Bill of Complaint, these respondents deny the allegations contained therein.

AND further answering the Bill of Complaint, these respondents aver that the Municipal Stadium was built in 1922 in response to public demand, and the consequent realization by the municipal authorities of the increasing need of the City of Baltimore for a stadium of a size consistent with its position as one of the great cities of our nation and with a seating capacity commensurate with its large population.

The 33rd Street site upon which the Stadium was built at a substantial cost had theretofore been unused for any public purpose whatsoever, and was in fact an abandoned brick yard, although owned by the City of Baltimore, and this was an important factor in the

final selection of that location over others also considered by the Board of Park Commissioners at that time. The immediate area surrounding the stadium site also was entirely undeveloped, the complainants and others building or purchasing homes in that vicinity having done so subsequent to the completion of the Stadium and, therefore, with full knowledge of its proximity; further, that the complainants also knew, or should have known, that the purpose for which the Stadium was built was to provide a much-needed public recreation center where the citizens of Baltimore might enjoy athletic, religious, patriotic and other events and activities planned for their education and enjoyment. That this has always been the purpose for which the Stadium was intended, and used, as best evidenced by the schedule of events held there since its construction, a copy thereof being attached hereto, marked "Respondents' Exhibit No. 1," and prayed to be accepted and considered as part hereof.

It was also contemplated from the very inception of the Stadium that every effort would be employed to make it self-sustaining, and, in fact, the prospect of attracting prominent intercollegiate and inter-service football games, with the substantial revenue to be derived therefrom, were largely responsible for its construction. Thus, it was never intended that the operation and maintenance of the Stadium should become a financial burden on the tax-paying public of the City. That this was the policy of the Board of Park Commissioners is apparent in that the first use of the Stadium after its completion was for a football game played between the Army and the Marine Corps before a crowd of more than 70,000 spectators, from which the Board received a substantial share of the gate receipts. However, after the first several years of operation the income derived from the Stadium sharply declined and it was constantly operated at a loss for many years and became generally known throughout this period as "The Vast Void," "Lonely Acres" and "Baltimore's

White Elephant." This condition is best shown by reference to the figures relating to the operation of the Stadium, a statement of which is attached hereto and prayed to be taken as part hereof, and marked "Respondents' Exhibition No. 2."

In an apparent effort to make the Stadium again self-sustaining, and in furtherance of its purpose as a recreational facility for the people of Baltimore, in 1939 the Board of Park Commissioners modernized the Stadium to the extent of installing floodlights, thereby permitting its use at night as well as on Saturday afternoons and holidays, and thereafter it was used at night for various activities including football and lacrosse. But while this improvement naturally resulted in a broader and more extensive use of the Stadium, it was not until 1944 that it was restored to a sound financial basis as will be seen from the foregoing figures, as also shown by "Respondents' Exhibit No. 2." In July of that year, through the circumstances of the destruction of Oriole Park by fire, the Baltimore Baseball and Exhibition Company applied to the Board of Park Commissioners for permission to use the Stadium for the playing of its "home" baseball games for the balance of the season, which was granted. Similar permission was granted in the succeeding years of 1945, 1946 and 1947. This use of the Stadium for baseball has never been exclusive, nor has it resulted in any curtailment of other events and programs regularly scheduled in the Stadium during the months comprising the baseball season.

In their capacity as the Department of Recreation and Parks of Baltimore City, formerly known as the Board of Park Commissioners, your Respondents have always welcomed suggestions and criticisms from the people of Baltimore, and where complaints have been received, every effort has been made to correct or minimize their cause. Accordingly, when in the fall of 1944 the Board received a formal complaint from

the Stadium Neighborhood Protest Committee objecting principally to the glare of the floodlights and the noise made by the crowds at those of the baseball games held at night, the Board, with the cooperation of the Baltimore Baseball and Exhibition Company, took immediate steps to reduce the use and volume of the loud speaker system and made provision whereby the games would be concluded at an earlier hour; that the efforts of the Board to minimize whatever inconveniences as may have been caused the complainants by the use of the Stadium at night for any and all purposes, including baseball, have been continuous throughout the past four years, with the result that any grounds for complaint which may formerly have existed, and over which either the Board or the Baltimore Baseball and Exhibition Company has control, have either been removed or reduced to a reasonable degree. Another complaint heretofore lodged by the complainants is that the use and occupancy of the Stadium by the Baltimore Baseball and Exhibition Company would result in a general deterioration of property values in the neighborhood, whereas the actual fact is that these property values, as shown by reassessments and sales, have greatly increased since the use and occupancy of said Stadium by the said Baltimore Baseball and Exhibition Company.

The discontinuance of professional baseball at the Stadium, as prayed by the complainants, would deprive the public of a healthy and lawful form of recreation for which it has a right to expect and demand that the Stadium shall be used; further, it would impose on the taxpaying public an additional and unnecessary tax burden caused by the consequent loss of revenue; and finally, it would seriously impair and undermine plans already laid for the construction of a modern stadium at the 33rd Street site. It is submitted that the duty and obligation incumbent upon these respondents, acting as the Department of Recreation and Parks, to provide

for the recreational welfare of the people of Baltimore cannot be inhibited or compromised for the benefit of a few at the expense of so many.

On May 6, 1947, the citizens of Baltimore were given the opportunity to express their opinion at the polls on sixteen different loans needed to finance various public improvements, one of which was for a stadium in the amount of \$2,500,000. It is significant that while eight of these loans were rejected by the voters, the Stadium Loan was passed by a substantial margin. These respondents consider this expression of the will of the people of Baltimore a strong endorsement of their policy in regard to the use of the municipal stadium for professional baseball.

Therefore, your respondents say that for the foregoing reasons the relief prayed by the complainants herein should not be granted, either in whole or in part.

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RESPONDENTS' EXHIBIT No. 1  
BALTIMORE STADIUM EVENTS

1922

December 2 — Army-Marines Football

1923

October 6 — Third Corps-Washington College  
October 13 — Third Corps-V.P.I.  
October 27 — Princeton-Navy  
November 10 — Third Corps-Scouting Fleet  
November 17 — City-Poly  
November 29 — J.H.U.-University of Maryland



## 1924

Boys' Week  
 Polo Games  
 P.F.P. Games  
 Defense Day  
 J.H.U.-Pittsburgh Football  
 Third Corps-Inf. School Football  
 J.H.U.-St. John's Football  
 Third Corps—Fleet Football  
 City-Poly Football  
 J.H.U.-University of Maryland Football  
 Army-Navy Football  
 Third Corps-Marine Football

## 1925

April	15 —	Maryland-Yale Lacrosse
April	25 —	Century Road Club-Bicycle Meet
April	30 —	Univ. of Md. Dental Dept.-Track Meet
May	2 —	Boy's Week Meet
May	21 —	Poly Inter-Class-Track Meet
May	19 - 25 —	Pageant Practice
May	26 —	Pageant Public Schools "Health" (White)
May	30 —	Baltimore County Track Meet
June	2 —	City-Wide Track Meet
June	5 —	State Olympics Track Meet
June	6 —	Evening Sun Girls Meet
June	10 —	Pageant Public Schools (Colored)
June	14 —	Elks Flag Day
July	4 —	Polo
August	18 —	Playground Pageant
August	29 —	Police-Letter Carrier Games
September	26 —	Loyola-Villa Nova Football
October	3 —	Western Maryland-Rhode Island Football
October	17 —	Navy-Princeton Football
October	24 —	Western Maryland-Loyola Football
October	30 —	Poly-Tome Football

October	31	— North Carolina-Maryland Football
November	7	— W. Va. Wesleyan-Marines Football
November	21	— City-Poly Football
November	26	— J.H.U.-University of Maryland Football
November	28	— City-Lindbloom Football

## 1926

March	20	— Soccer Locust Point Rangers-All Americans
March	27	— Soccer Locust Point Rangers-All Americans
April	3	— Soccer Locust Point Rangers-All Americans
April	10	— Soccer Locust Point Rangers-All Americans
May	8	— Track Meet Dental Dept. University of Maryland
May	12	— Lacrosse City-Poly
May	19	— Lacrosse City-Poly
May	22	— Lacrosse L'Hirondelle-Princeton
May	25	— Pageant "Marines All"
May	26	— Athletic Meet Parochial Schools
May	28	— Lacrosse City-Poly
May	29	— Boys Week Bicycle Div.
June	1	— Pageant Colored Schools (Health Land)
June	5	— Baltimore County Meet
June	8	— City-Wide Meet
June	11	— State-Wide Meet
June	26	— Military Tournament
October	1	— City-McKinley Football
October	8	— City-Tome Football
October	15	— City-Mt. St. Joseph Football
October	16	— Loyola-Washington College Football
October	30	— Football Navy-Michigan
November	5	— City-Franklin Marshall High Football
November	6	— Loyola-Juniata Football
November	11	— Poly-Calvert Hall Football

November	13 —	Western Maryland-Loyola Football
November	14 —	Flower Show
November	15 —	Flower Show
November	16 —	Flower Show
November	20 —	City-Poly Football
November	25 —	J.H.U.-University of Maryland Football

## 1927

January	18 —	Soccer Poly-Gilman
May	4 —	Lacrosse City-Poly
May	18 —	Lacrosse City-Poly
May	27 —	Shrine Ceremonial
June	5 —	Soccer Hakoak
June	7 —	Baltimore City Track Meet
June	10 —	State-Wide Track Meet
June	13 —	Parochial School Track Meet
June	25 —	Eastern Div. Bohemia Gymnastic Tournament
July	16 —	National Police Track Meet
August	11 —	Playground Children's Pageant
August	22 —	Airplane Contest Trials
September	3 —	Airplane Contest Finals
September	18 —	Baltimore Bait Fly & Surf Casting Club Tournament
September	19 —	Concert Marine Band of Wash. D.C.- Auspices Kiwanis
September	29 —	Poly-Central High of D.C. Football
October	1 —	Loyola-Villa Nova Football
October	5 —	Ceremonial of Eagles
October	15 —	Navy-Notre Dame Football
October	18 —	Reception to Lindbergh
October	20 —	Poly-Mt. St. Joe Football
October	21 —	City-Gilman Football
October	28 —	City-Loyola Football
November	3 —	Poly-Loyola Football
November	4 —	City-Annapolis High Football
November	5 —	Western Maryland-Loyola Football
November	8 —	Flower Show

November	9 — Flower Show
November	10 — Flower Show
November	9 — City-Severn Football
November	10 — Poly-Calvert Hall Football
November	11 — Western Maryland-All Army Football
November	19 — City-Poly Football
November	24 — Hopkins-Maryland Football
December	9 — Soccer City-Poly
December	10 — Coast Guard-Irvington's Red Cross Football
December	16 — Soccer City-Poly

## 1928

January	2 — Soccer Locust Point-Clifton A. A.
January	17 — Soccer City-Poly
January	18 — Soccer City-Poly
April	9 — Baseball - Orioles-Washington Americans
April	21 — Lacrosse Mt. Washington-Syracuse
May	5 — Lacrosse Mt. Washington-Penn State
May	8 — Lacrosse City-Calvert Hall
May	12 — Lacrosse L'Hirondelle-Crescent A. C.
May	16 — Baseball - City-Poly
May	24 — Pageant Public Schools (White)
May	29 — Pageant Public School (Colored)
June	5 — Baltimore City Track Meet
June	8 — State-Wide Track Meet
June	9 — Lacrosse Olympic Tryouts
June	16 — Military Show
June	23 — Lacrosse Olympic J.H.U.-University of Maryland
June	30 — Shrine Ceremonial
June	30 — Band Concert at Night
August	9 — Playground Pageant
September	27 — Poly-Boys Latin Football
October	4 — Poly-Severn Football
October	5 — Annapolis High-City Football
October	11 — Forest Park-Severn Football

October	12 —	City-Mt. St. Joe Football
October	17 —	City-St. James Football
October	24 —	Hockey English Girls-Baltimore All Star
October	25 —	City-Loyola High Football
October	26 —	Poly-Gilman Football
November	2 —	City-St. James Football
November	3 —	Wester Maryland-Loyola Football
November	10 —	Navy-Michigan Football
November	12 —	Poly-Calvert Hall Football
November	24 —	City-Poly Football
November	29 —	J.H.U.-University of Maryland Football
December	5 —	Soccer City-Poly
December	12 —	Soccer City-Poly
December	17 —	Soccer City-Forest Park

## 1929

January	2 —	Soccer City-Calvert Hall
January	14 —	Soccer City-Poly
January	29 —	Soccer City-Poly
January	31 —	Soccer Poly-Calvert Hall
February	2 —	Soccer City-Calvert Hall
March	9 —	Ten Mile Run Emorywood Athletic Club
April	12 —	Lacrosse City-Calvert Hall
April	13 —	Lacrosse University of Baltimore- Hopkins Olympics
April	20 —	Lacrosse University of Baltimore- Western Maryland
May	8 —	Lacrosse City-Friends
May	10 —	Lacrosse City-Donaldson
May	11 —	Lacrosse University of Baltimore- Mt. Washington
May	18 —	Lacrosse Mt. Washington-Crescents- J.H.U.-St. John's
May	25 —	Lacrosse J.H.U.-University of Maryland
June	4 —	City-Wide Track Meet

June	7 — State-Wide Track Meet
June	22 — Lacrosse Bethlehem-Woodlawn
September	13 — Centennial Playground Pageant
September	14 — Centennial Industrial Parade
September	15 — Centennial Band Concert and Parade
September	21 — Horse Show
September	22 — Fly Casting Tournament
October	3 — Poly-Boys Latin Football
October	4 — City-St. John's Football
October	12 — Navy-Notre Dame Football
October	13 — Fly Casting Tournament
October	18 — Poly-Mt. St. Joe Football
October	19 — Western Maryland-Temple Football
October	26 — Loyola-American University Football
October	31 — Poly-Severn Football
November	2 — Western Maryland-St. John's Football
November	8 — Calvert Hall-Poly Football
November	11 — Western Maryland-Loyola Football
November	14 — Poly-St. James Football
November	15 — City-Forest Park Football
November	16 — Firemen-Marines Football
November	23 — City-Poly Football
November	28 — J.H.U.-University of Maryland Football
December	7 — University of Maryland-Western Maryland Football
December	13 — Soccer City-Poly
December	14 — Soccer Eastern-Middleton

## 1930

April	12 — Boy Scouts Field Day
April	16 — Lacrosse City-Park
April	19 — Lacrosse Western Maryland-Penn
April	27 — Archery Contest - Avondale-Potomac Club
May	4 — Century Road Club - Bicycle Tour
May	9 — Lacrosse City-Severn
May	11 — Tall Cedars Band Practice
May	24 — Lacrosse J.H.U.-University of Maryland

May	29	— Pontifical Mass
June	3	— Baltimore City Track Meet
June	6	— State-Wide Track Meet
September	2	— V. of F.W. Boxing and Wrestling Meet
September	26	— City-Friends Football
September	27	— Western Electric Track Meet
September	28	— Baltimore Casting Club Tournament
October	2	— City-Annapolis High Football
October	3	— Poly-Boys Latin Football
October	18	— Western Maryland-Georgetown Football
October	22	— City-McDonogh Football
October	23	— Forest Park-Severn Football
October	24	— Poly-Gilman Football
October	25	— Western Maryland-Loyola Football
October	31	— City-Mt. St. Joe Football
November	1	— Firemen-Marines Football
November	8	— Navy-Ohio State Football
November	14	— Poly-Forest Park Football
November	15	— Navy-Southern Methodist Football
November	22	— City-Poly Football
November	27	— J.H.U.-Maryland Football
December	6	— Western Maryland-University of Maryland Football

## 1931

January	1	— Cross Country Club Football Game
March	17 - 21	— 1931 Flower Show
April	11	— St. John's-Mt. Washington Lacrosse
April	25	— St. John's-Union
May	1	— City-McDonogh Lacrosse
May	23	— Hopkins Lacrosse Game
June	2	— City-Wide Track Meet
June	5	— State-Wide Track Meet
June	20	— Germania Turnverein Track Meet
August	24	— Colored Shrine Competitive Drill
September	13	— Marine Band Concert
September	19	— Point Breeze Track Meet



September	25	— Poly-McKinley High Football
September	27	— Oriole Archers
October	2	— Poly-McDonogh Football
October	4	— Fly Casters Tournament
October	10	— Western Maryland-St. John's Football
October	17	— Western Maryland-Wash. and Jefferson Football
October	23	— Forest Park-Severn Football
October	24	— Firemen-Marines
October	31	— Western Maryland-Loyola College Football
November	7	— Western Maryland-Boston College
November	11	— City-Calvert Hall Football
November	14	— Navy-Notre Dame Football
November	20	— Southern High-Vocational Football
November	21	— City-Poly Football
November	26	— Hopkins-University of Maryland
November	27	— Forest Park-Southern High
November	28	— City-Poly Charity Football
December	5	— Western Maryland-University of Maryland Football
December	12	— Walbrook-Rangers Football

## 1932

April	22	— Lacrosse City-Donaldson
April	28	— Lacrosse City-McDonogh
May	4	— Lacrosse City-Friends
May	6	— Lacrosse Poly-McDonogh
May	20	— Lacrosse City-Poly
May	21	— Lacrosse Hopkins-University of Maryland
May	29	— Archery Contest
June	1	— City-Wide Track Meet
June	10	— State-Wide Track Meet
June	11	— Lacrosse Hopkins-Mt. Wash.-U. of Md.- St. John's
June	18	— Lacrosse U. of Md.-Crescents-Hopkins- Rutgers

June	25	— Lacrosse Hopkins-University of Maryland
September	23	— City-McKinley High Football
September	24	— Univ. of Balto.-Shenandoah College Football
September	25	— Fly Casting Tournament
September	30	— City-Vocational Football
October	6	— City-McDonogh Football
October	7	— Poly-Gilman Football
October	8	— Univ. of Balto.-Cooper Union Football
October	13	— Southern High-Vocational Football
October	14	— Forest Park-St. James Football
October	15	— Loyola College-Washington College Football
October	21	— Poly-Loyola High Football
October	22	— Univ. of Balto.-Moravian College Football
October	27	— City-Mt. St. Joe Football
October	28	— Forest Park-Calvert Hall Football
October	29	— Loyola College-Western Maryland Football
November	4	— City-Loyola High Football
November	5	— Firemen-Marines Football
November	12	— Navy-Univ. of Md. Football
November	17	— Southern High-Forest Park Football
November	19	— City-Poly Football
November	24	— Hopkins-Univ. of Md. Football
December	3	— Univ. of Md.-Western Md. Football
December	10	— All Star North-South Football

## 1933

January	1	— Round Robin Poly-Forest Park-City-Southern High
May	7	— Tall Cedars Drill
May	19	— City-Boys' Latin Lacrosse
May	21	— Turnverein Vorwaerts Track Meet
May	24	— City-Gilman Lacrosse
May	28	— Oriole Archers

May	29 —	City-McDonogh Lacrosse
June	3 —	South Atlantic Track Meet
June	6 —	City-Wide Track Meet
June	9 —	State-Wide Track Meet
June	11 —	Oriole Archers
July	9 —	Oriole Archers
July	19 —	P.A.L. Meeting
July	20 —	P.A.L. Meeting
August	13 —	Oriole Archers
September	17 —	Oriole Archers
September	23 —	Univ. of Balto.-Montclair College Football
October	1 —	Dahlia Show
October	5 —	Southern High-Friends Football
October	6 —	McDonogh-Poly Football
October	8 —	Oriole Archers
October	16 —	Vocational-Forest Park Football
October	19 —	Poly-Mt. St. Joe Football
October	20 —	City-Gilman Football
October	21 —	Western Maryland-Georgetown Football
October	26 —	Vocational-Calvert Hall Football
October	27 —	Forest Park-Severn Football
October	28 —	Western Maryland-University of Maryland Football
October	29 —	Oriole Archers
November	4 —	U. S. Naval Academy-Notre Dame Football
November	10 —	Southern High-Vocational Football
November	11 —	Univ. of Balto.-Bridgewater College
November	18 —	Firemen-Marines Football
November	24 —	Southern High-Forest Park Football
November	25 —	City-Poly Football
November	30 —	Balto. Amateur Round Robin Football

## 1934

April	22 —	Oriole Archers
May	11 —	Lacrosse City-McDonogh
May	19 —	Lacrosse J.H.U.-Univ. of Maryland

May	29 —	Choir Practice for Catholic Mass
May	30 —	Catholic Military Mass
June	2 —	Boumi Temple-50th Anniversary Celebration
June	8 —	State-Wide Track Meet
June	9 —	South Atlantic Track Meet
July	4 —	Greater Northeast Baltimore 4th of July Celebration.
July	15 —	Oriole Archers
August	5 —	Oriole Archers
August 11 -	12 —	Gladiolus Society Flower Show
September	2 —	Oriole Archers
September	3 —	Oriole Archers
September	12 —	Red Men Ceremonial and Drill
September	21 —	Football City-Vocational
October	5 —	Pageant-300th Anniv. Found. Md.
October	6 —	Pageant-300th Anniv. Found. Md.
October	8 —	Pageant-300th Anniv. Found. Md.
October	9 —	Pageant-300th Anniv. Found. Md.
October	11 —	City-McDonogh Football
October	12 —	Poly-Gilman Football
October	14 —	Oriole Archers
October	19 —	Forest Park-McDonogh Football
October	20 —	West. Md.—Boston College Football
October	24 —	Vocational-Calvert Hall Football
October	25 —	Poly-Loyola Football
October	27 —	Univ. of Md.-Univ. of Fla. Football
November	2 —	City-Mt. St. Joe Football
November	3 —	Univ. of Baltio.-Shenandoah College Football
November	8 —	Southern High-Vocational Football
November	10 —	Firemen-Marines Football
November	12 —	Univ. of Maryland-V.M.I. Football
November	23 —	Southern High-Forest Park Football
November	24 —	City-Poly Football
November	29 —	Hopkins-Univ. of Maryland Football
December	1 —	Western Maryland-Georgetown Football

## 1935

April	21 — Sunrise Church Services
April	26 — Lacrosse City-St. Paul
April	28 — Oriole Archers
May	9 — Univ. of Balto. Track Meet
May	19 — Oriole Archers
May	24 — Lacrosse City-Poly
May	24 — Ednor Gardens Improvements Association Dinner
May	28 — Lacrosse City-Friends
May	29 — Lacrosse City j.v.-Poly j.v.
June	4 — Baltimore City Track and Field Meet
June	7 — State-Wide Track and Field Meet
July	4 — Greater Northeast Baltimore Celebration
July	14 — Oriole Archers
August	8 — Foreign Legion Drill
August	18 — Oriole Archers
September	1 — Watchtower Bible Track Society
September	1 — Waverly Business Men's Association Concert
September	5 — Mt. Pleasant-Clifton Golf Association
September	6 — Citizens School Association
September	8 — Waverly Business Men's Association Concert
September	22 — Oriole Archers State Championship
September	24 — Citizens School Association
September	29 — Mt. Pleasant-C.P. Assn. Phila. Golfers
October	4 — Poly-McDonogh
October	5 — Univ. of Md.-V.P.I.
October	11 — Severn-Forest Park
October	12 — North Carolina-Univ. of Maryland
October	13 — Oriole Archers
October	17 — Mt. St. Joe-Poly
October	18 — Gilman-City
October	19 — Western Maryland-Bucknell
October	24 — Chestnut Hill Assn. Dance

October	26 — Navy-Notre Dame
November	1 — Severn-Poly
November	2 — Firemen-Marines
November	9 — Univ. of Maryland-Univ. of Indiana
November	11 — Univ. of Balto.-Bridgewater
November	16 — City-Poly
November	19 — D. Lefko
November	23 — Western Maryland-North Dakota
November	28 — Univ. of Maryland-Syracuse
November	30 — Western Maryland-Georgetown
December	3 — Md. Board of Approved Basketball Officials
December	4 — Chestnut Hill Imp. Assn. Card Party
December	7 — Univ. of Maryland-Western Maryland
December	14 — Jesters
December	27 — Chestnut Hill Xmas Entertainment

## 1936

January	22 — Clifton Imp. Assn. Dinner to Mr. Baker
January	29 — Read Building Pictures
February	15 — Aux. Supervisors Post Office
March	12 — Clifton Imp. Assn. Show
March	16 — Luncheon to Legislature and Council
April	12 — Easter Sunrise Services
April	15 — Clifton Imp. Assn. Dance
April	19 — Oriole Archers
May	4 — Sr. High School (Jr.) Meet
May	5 — Sr. High School (Sr.) Meet
May	10 — Tall Cedars
May	10 — Soft Ball Game East Lot
May	15 — City-Poly Lacrosse
May	16 — B.A.C.-St. John's Lacrosse
May	17 — Oriole Archers
May	22 — Ednor Imp. Assn. Dance
May	23 — Archery
May	28 — Chestnut Hill Assn. Dance
June	9 — Balto. City Public School Track and Field Meet

June	12 —	State-Wide Track and Field Meet
June	16 —	Colored Elks Track Meet
June	20 —	South Atlantic Champs
June	28 —	4th July Committee Meeting
June	29 —	Ritchie Memorial Committee
July	4 —	Greater N. E. Imp. Assn. Fireworks
July	6 —	General Motors Exhibit on East Lot for Week
September	13 —	Clifton-Mt. Pleasant Golf Assn. Dinner to Lancaster Golfers
September	15 —	Md. Board of Football Officials
September	22 —	Md. Board of Football Officials
September	26 —	City-Wide Pet Show
October	9 —	City-McDonogh
October	17 —	Navy-Yale
October	24 —	Western Maryland-St. Mary's
October	30 —	City-Mt. St. Joe
November	7 —	Navy-Notre Dame
November	11 —	Chestnut Hill Card Party
November	12 —	Clifton Improvement Association
November	14 —	Firemen-Marines
November	21 —	City-Poly
November	24 —	Meeting Basketball Rules
November	26 —	Washington & Lee-Maryland
December	5 —	Western Maryland-Maryland
December	27 —	Chestnut Hill Xmas Party
December	31 —	Chestnut Hill Dance

## 1937

February	13 —	Jesters Oyster Roast
March	28 —	Easter Services
April	2 —	Lacrosse City-St. Paul's
April	16 —	Lacrosse B.A.C.-Princeton
April	16 —	Lacrosse City-Boys Latin
April	17 —	News-Post Yo-Yo
April	23 —	Lacrosse City-Friends
April	28 —	Lacrosse City-Gilman
April	29 —	Sr. High School Jr. Track Meet- Morning



April	29 — Sr. High School Jr. Track Meet- Afternoon
May	3 — Sr. High School Sr. Track Meet
May	5 — Lacrosse City-Forest Park
May	7 — Lacrosse Boys Latin-Poly
June	1 — Lacrosse City-Poly
June	5 — Lacrosse City-Brooklyn, N. Y.
June	8 — Balto. City Public School Track Meet
June	11 — State Track Meet
June	12 — S.A.A.A.U. Championship
June	26 — One Mile Run Tuttle Trophy
July	10 — 4th Celebration
July	22 — American Legion Drum & Bugle Corps
September	17 — Constitution Day Celebration
September	21 — Football Officials Association
September	25 — Pet Show
October	2 — Tuttle One Mile Run
October	16 — Navy-Harvard Football
October	23 — Univ. of Md.-Syracuse Football
October	30 — Western Md.-West Va. Football
November	6 — Western Md.-Boston College Football
November	13 — Firemen-Marines Football
November	20 — City-Poly Football
November	25 — Univ. of Md.-Washington & Lee Football
December	4 — Dinner to Mr. Nichols
December	7 — Basketball Officials
December	31 — Chestnut Hill Party

## 1938

March	9 — Md. Lacrosse Refrees Association
April	6 — Lacrosse B.A.C.-Princeton
April	9 — Lacrosse Mt. Washington-Princeton
April	13 — Lacrosse Severn-City
April	17 — Easter Sunrise Service
April	23 — B.A.C.-Crescent Ham. Lacrosse
May	2 — Fish Society
May	7 — Md. Band and Orchestral Concert

May	27 —	Lacrosse City-Poly
June	10 —	State-Wide Track Meet
June	11 —	Tuttle Trophy One Mile Run
July	4 —	Greater Northeast Celebration
July	13 —	Beetle Demonstration
September	15 —	Football Officials
September	24 —	Pet Show
October	7 —	City-McDonogh Football
October	8 —	Tuttle Trophy One Mile Run
October	15 —	Univ. of Md.-Western Md. Football
October	22 —	Navy-Princeton Football
October	29 —	Firemen-Marines Football
November	5 —	Navy-Notre Dame Football
November	9 —	Reception Mrs. Smith
November	10 —	Chestnut Hill Card Party
November	12 —	West. Md.-Wake Forest Football
November	16 —	Soccer Referees Meeting
November	18 —	Forest Park-Patterson Park Football
November	19 —	City-Poly Football
November	22 —	Md. State Basketball Officials
November	24 —	Univ. of Md.-Washington & Lee Football
December	26 —	Blackjacks-Brooklyn A.A. Football
December	31 —	Chestnut Hill Party

## 1939

January	5 —	Tennis Officials
April	9 —	Easter Sunrise Service
April	21 —	Lacrosse City-McDonogh
April	27 —	Lacrosse City-Friends
May	5 —	Lacrosse Poly-Boy's Latin
May	18 —	Casting Club
May	26 —	Lacrosse City-Poly
May	26 —	Casting Club
June	10 —	South Atlantic Meet
June	10 —	Mr. Jeffries Anniversary
June	14 —	Eastern Star
June	29 —	Shrine Celebration (Day and Night)

July	4 — Greater Northeast Celebration
August	13 — Civic Concert
August	16 — Hollywood Stunt Aces Cedars
August	17 — Hollywood Stunt Aces Cedars
August	20 — Civic Concert
August	27 — Civic Concert
September	3 — Civic Concert
September	7 — Midget Auto Races (Postponed)
September	14 — Star Spangled Banner Celebration
September	15 — Football Poly-Vocational
September	16 — Wheels of Progress (Afternoon and Night)
September	20 — Midget Auto Races
September	22 — Football Poly-Southern
September	23 — Football Forest Park-Vocational
September	28 — Midget Auto Races
September	29 — Football Poly-McDonogh
September	30 — Football City-Roosevelt
September	29 — Football Southern-Forest
October	6 — Football Patterson-Poly
October	7 — Football Univ. of Md.-West. Md.
October	14 — Football Navy-Dartmouth
October	14 — Football City-McKinley
October	20 — Football Poly-Mt. St. Joseph
October	21 — City-Southern Football
October	27 — Football Western Md.-Boston
October	27 — Football Poly-Severn
October	28 — Football Patterson-Southern
October	28 — Football City-Mt. St. Joseph
November	3 — Football Poly-Forest Park
November	4 — Football City-Patterson Park
November	10 — Football City-Forest Park
November	17 — Football Forest Park-Patterson
November	18 — Football City-Poly
November	25 — Football Firemen-Marines
To	
November	25 — Bands, Passes, Participants, Football

## 1940

January	1 — Chestnut Hill Xmas Party
March	24 — Easter Sunrise Service
April	3 — Lacrosse B.A.C.-Princeton
April	26 — Lacrosse Mt. Washington-B.A.C.
May	10 — Dahlia Society
May	31 — Lucky Teeter (Shrine)
June	1 — Lucky Teeter (Shrine)
June	4 — Baltimore County Track Meet
June	6 — Lucky Teeter (Shrine)
June	14 — North-South Lacrosse Game
June	23 — Symphony Concert
July	2 — Symphony Concert
July	4 — 4th Celebration Greater N.E. Assn. Symphony Concert
July	14 — Symphony Concert
July	21 — Symphony Concert
September	2 — Drum and Bugle Contest
September	14 — S.A. Track Meet
September	20 — Football Poly-Southern
September	21 — Football City-Fork Union
September	27 — Football Forest Park-Southern
September	28 — Football Vocational-Patterson Park
October	4 — Football City-McDonogh
October	4 — Football Patterson Park-Poly
October	5 — Football Forest Park-Mt. St. Joseph
October	11 — Football Poly-Gilman
October	11 — Football Southern-Loyola H. S.
October	12 — Football City-Patterson Park
October	18 — Football Western Md.-Bucknell
October	19 — Football Southern-City
October	25 — Football Poly-Severn
October	25 — Football Univ. of Md.-Western Md.
October	26 — Football Forest Park-Calvert Hall
November	1 — Football Poly-Forest Park
November	2 — Football Patterson Park-Mt. St. Joseph
November	9 — Football Navy-Notre Dame

November	16	—	Football City-Poly
November	20	—	Football Forest Park-Patterson Park
November	21	—	Football Univ. of Md.-Rutgers
November	23	—	Football Firemen-Marines
December	25	—	Football Tru Fits-Westfield
			Election Officials-Use as Polls-Civic
			Registration Board-Civic
			Registration Draft-Civic
			Primary Election Officials-Civic

## 1941

April	13	—	Easter Sunrise Service
April	27	—	Boys & Girls Youth Week, Drum & Bugle Corps
May	9	—	Lacrosse Un. of Md.-Mt. Washington
May	24	—	Shrine Pageant
June	4	—	Baltimore County Track Meet
June	10	—	Tall Cedars Rodeo
June	11	—	Tall Cedars Rodeo
June	12	—	Tall Cedars Rodeo
June	13	—	Tall Cedars Rodeo
June	14	—	Tall Cedars Rodeo (Afternoon)
June	14	—	Tall Cedars Rodeo (Night)
June	26	—	Prize Fights (Jack Lakin)
July	4	—	4th Celebration
September	1	—	Drum Corps Contest
September	3	—	Cavalcade of Thrills (Polish Al.)
September	5	—	Cavalcade of Thrills
September	6	—	Cavalcade of Thrills
September	19	—	Football Patterson-Loyola
September	20	—	City-Fork Union
September	26	—	Poly-McDonogh (Afternoon)
September	26	—	Forest-Southern
September	27	—	Patterson-Vocational
October	3	—	Southern-Vocational
October	3	—	Univ of Md.-Western Md.
October	4	—	Forest Park-Mt. St. Joe
October	10	—	Forest Park-McDonogh (Afternoon)

October	10 —	Southern-Loyola Football
October	11 —	Univ. of Md.-Duke Football
October	18 —	Navy-Cornell (Afternoon) Football
October	18 —	Forest Park-Severn Football
October	24 —	Poly-Severn (Afternoon) Football
October	24 —	Western Md.-Boston Univ. Football
October	25 —	Forest Park-Calvert Hall Football
November	1 —	Patterson-Calvert Hall Football
November	8 —	Navy-Notre Dame (Afternoon) Football
November	8 —	City-Forest Park Football
November	14 —	Patterson-Forest Park Football
November	15 —	City-Poly Football
November	20 —	Univ. of Md.-Washington & Lee Football
November	22 —	Firemen-Marines Football

## 1942

April	5 —	Easter Sunrise Service
May	7 —	I Am An American Day
June	12 —	Army War Show
June	13 —	"
June	14 —	"
June	15 —	"
June	19 —	Rodeo Tall Cedars
June	20 —	Rodeo Tall Cedars (Afternoon & Night)
June	22 —	"
June	23 —	"
June	24 —	"
June	25 —	"
June	27 —	" (Afternoon & Night)
September	12 —	Drum Corps Contest
September	7 —	Football Washington-Greenbay
September	16 —	" All Army-Brooklyn Dodgers
September	18 —	" Patterson-Forest Park
September	26 —	" City-Fork Union
September	25 —	" Patterson-Loyola
October	2 —	" Forest Park-Southern
October	3 —	" Patterson-Calvert Hall

October	9 —	"	Poly-Patterson
October	10 —	"	Univ. of Md.-Rutgers
October	10 —	"	Southern-City
October	17 —	"	Navy-Yale
October	23 —	"	Forest-Severn
October	24 —	"	City-Patterson
October	24 —	"	Western Maryland-Univ. of Md.
October	30 —	"	Forest-Calvert Hall
October	31 —	"	Southern-Patterson
November	6 —	"	Poly-Forest Park
November	14 —	"	Navy-Columbia
November	14 —	"	Forest-City
November	21 —	"	City-Poly
November	28 —	"	Firemen-Marines

## 1943

April	25 —		Easter Sunrise Service
June	13 —		Soccer Santa Maria-Morgan Strasser
June	23 —		War Industries Boxing Tournament
July	4 —		4th Celebration
September	5 —		Football Redskins-Greenbay Packers
September	6 —		Drum Corps Contest
September	12 —		Football Redskins-Chicago Bears
September	17 —	"	Forest-Patterson
September	24 —	"	Poly-Southern
September	25 —	"	City-Fork Union
October	2 —	"	Navy-Cornell
October	9 —	"	Navy-Duke
October	14 —	"	Poly-Gilman
October	16 —	"	Patterson-City
October	23 —	"	Navy-Georgia Tech
October	29 —	"	City-St. Joe
October	30 —	"	Patterson-Southern
November	5 —	"	Forest-Poly
November	12 —	"	Poly-St. Paul
November	13 —	"	City-Forest Park
November	20 —	"	City-Poly



## 1944

April	9	—	Easter Sunrise Service
June	12	—	Army 5th War Bond Drive
July	4	—	Greater Northeast Imp. Assn. 4th Celeb.
August	21	—	Police Boxing Tournament
September	2	—	Drum Corps Contest
September	3	—	Baseball Martin Bombers
September	4	—	Football Redskins-Greenbay Packers
September	7	—	Baseball All American Am. Assn.
September	8	—	" " " " "
September	9	—	" " " " "
September	10	—	Football Redskins vs. Bears
September	15	—	" Southern vs. Calvert Hall
September	16	—	" Forest vs. Patterson
September	22	—	" City vs. Fork Union
September	23	—	" Southern vs. Poly
September	29	—	" Forest vs. Southern
October	6	—	" Poly vs. Patterson
October	7	—	" City vs. Southern
October	14	—	" Navy vs. Duke
October	14	—	" Forest vs. McDonogh
October	21	—	" Poly vs. Loyola
October	23	—	" City vs. Patterson
October	27	—	" Poly vs. Severn
November	4	—	" Navy vs. Notre Dame
November	4	—	" Patt.-Loyola Forest-Poly
November	11	—	" Navy vs. Cornell
November	11	—	" City vs. Forest
November	12	—	" Loyola vs. Mt. St. Joe
November	18	—	" Navy vs. Purdue
November	23	—	" Loyola vs. Calvert Hall
November	23	—	" City vs. Poly
December	2	—	" Army vs. Navy
December	10	—	" Md. Amateur Football Champs

## BASEBALL

July	16 —	Orioles vs. Jersey City
July	18 —	" " "
July	19 —	" " "
July	20 —	" " Newark
July	21 —	" " "
July	22 —	" " "
July	23 —	" " Toronto
July	25 —	" " "
July	27 —	" " Montreal
July	28 —	" " "
July	29 —	" " "
July	30 —	" " "
July	31 —	" " Rochester
August	1 —	" " "
August	4 —	" " Buffalo
August	5 —	" " "
August	6 —	" " "
August	24 —	" " Newark
August	26 —	" " "
August	25 —	" " "
August	27 —	" " Jersey City
August	29 —	" " "
August	30 —	" " "
September	4 —	" " Syracuse
September	5 —	" " "
September	6 —	" " "
September	17 —	" " Buffalo
September	24 —	" " "
September	25 —	" " "
September	26 —	" " "
September	27 —	" " Newark
October	1 —	" " "
October	2 —	" " "
October	4 —	" " "
October	9 —	" " Louisville
October	10 —	" " "
October	11 —	" " "

## 1945

April	1 —	Orioles-Athletics
April	8 —	" -Montreal
April	19 —	" -Athletics
April	20 —	" -Montreal
April	22 —	" -Buffalo
April	23 —	" -Buffalo
April	27 —	" -Rochester
April	28 —	" -Toronto
April	29 —	" -Toronto
April	30 —	" -Toronto
May	14 —	7th War Loan Drive Show
May	16 —	7th War Loan Drive Show
May	17 —	7th War Loan Drive Show
May	24 —	Orioles-Newark
May	25 —	" -Newark
May	28 —	" -Jersey City
May	29 —	" -Syracuse
May	30 —	" -Syracuse
June	4 —	" -Rochester
June	5 —	" -Rochester
June	6 —	" -Rochester
June	7 —	" -Montreal
June	8 —	" -Montreal
June	9 —	" -Montreal
June	10 —	" -Montreal
June	11 —	" -Buffalo
June	12 —	" -Buffalo
June	13 —	" -Buffalo
June	15 —	" -Toronto
June	16 —	" -Toronto
June	17 —	" -Toronto
June	20 —	Baseball-Patrick Henry vs. Camp Robert E. Lee
June	24 —	Baltimore City Memorial Concert
July	4 —	Greater N.E. Celebration
July	7 —	Orioles-Jersey City
July	8 —	" -Jersey City

July	10 —	"	-Jersey City
July	11 —	"	-Jersey City
July	13 —	"	-Syracuse
July	20 —	"	-Newark
July	21 —	"	-Newark
July	23 —	"	-Toronto
July	24 —	"	-Toronto
July	25 —	"	-Toronto
July	27 —	"	-Buffalo
July	28 —	"	-Buffalo
July	31 —	"	-Montreal
August	1 —	"	-Montreal
August	2 —	"	-Rochester
August	3 —	"	-Rochester
August	4 —	"	-Rochester
August	5 —	"	-Rochester
August	25 —	"	-Syracuse
August	26 —	"	-Syracuse
August	27 —	"	-Jersey City
August	28 —	"	-Jersey City
August	29 —	"	-Jersey City
September	3 —	Md. Jr. Drum Corps Contest	
September	6 —	Orioles-Newark	
September	7 —	"	-Newark
September	8 —	"	-Newark
September	9 —	"	-Newark
September	15 —	"	-Montreal
September	16 —	"	-Montreal
September	19 —	"	-Montreal
September	21 —	Football City-Fork Union	
September	22 —	"	Forest Park-Calvert Hall
September	22 —	"	Poly-Southern
September	28 —	"	Southern-Forest Park
September	29 —	"	Patterson-St. Paul
September	29 —	Baseball Lincoln-St. Helena-St. Philip-St. Elizabeth	
September	30 —	Football Wash. Redskins-Detroit	
October	5 —	"	City-Southern
October	5 —	"	Patterson-Poly

October	6 —	"	Forest-Mt. St. Joe
October	12 —	"	Patterson-Southern
October	20 —	"	Navy-Ga. Tech.
October	26 —	"	City-Mt. St. Joe
October	27 —	"	Forest-Loyola
October	28 —	"	Ist Air Force-4th Air Force
November	2 —	"	Patterson-Loyola
November	2 —	"	Poly-Forest Park
November	10 —	"	Navy-Michigan
November	10 —	"	City-Forest Park
November	11 —	"	Mt. St. Joe-Loyola
November	16 —	"	Forest-Patterson
November	17 —	"	Navy-Wisconsin
November	18 —	"	Mt. St. Joe-Calvert Hall
November	22 —	"	City-Poly
November	22 —	"	Loyola-Calvert Hall
November	24 —	"	Loyola-Boystown

## 1946

April	7 —	Orioles-Philadelphia A.L.
April	11 —	N.Y. Yankees-Brooklyn Dodgers
April	14 —	Orioles-Washington
April	18 —	Orioles-Rochester
April	19 —	Orioles-Rochester
April	21 —	Easter Sunrise Service
April	21 —	Orioles-Toronto
April	23 —	" -Toronto
April	24 —	" -Buffalo
April	27 —	" -Montreal
April	28 —	" -Montreal
April	29 —	" -Montreal
May	15 —	Soccer Liverpool-Balto.Amer.
May	19 —	Orioles-Newark
May	20 —	" -Newark
May	21 —	" -Jersey City
May	22 —	" -Jersey City
May	24 —	" -Syracuse
May	25 —	" -Syracuse

May	26 —	"	-Syracuse
June	6 —	"	-Montreal
June	7 —	"	-Montreal
June	8 —	"	-Montreal
June	9 —	"	-Buffalo
June	10 —	"	-Buffalo
June	11 —	"	-Buffalo
June	12 —	"	-Buffalo
June	15 —	"	-Toronto
June	16 —	"	-Toronto
June	17 —	"	-Rochester
June	18 —	"	-Rochester
July	4 —		Fireworks
July	7 —		Orioles-Jersey City
July	9 —	"	-Jersey City
July	10 —	"	-Newark
July	12 —	"	-Newark
July	13 —	"	-Newark
July	21 —	"	-Rochester
July	23 —	"	-Rochester
July	24 —	"	-Rochester
July	26 —	"	-Montreal
July	27 —	"	-Montreal
July	28 —	"	-Montreal
July	29 —	"	-Buffalo
July	30 —	"	-Buffalo
July	31 —	"	-Buffalo
August	2 —	"	-Toronto
August	3 —	"	-Toronto
August	4 —	"	-Toronto
August	19 —	"	-Syracuse
August	20 —	"	-Syracuse
August	21 —	"	-Syracuse
August	23 —	"	-Newark
August	24 —	"	-Newark
August	25 —	"	-Newark
August	30 —		Pro-Football-Miami
August	31 —		Seahawks-Buffalo Bisons
August	31 —		Amateur Baseball-Touchdown Club

September	2 —	Orioles-Syracue
September	2 —	Md. Jr. Drum Corps Contest
September	3 —	Orioles-Syracue
September	4 —	" -Syracue
September	6 —	" -Jersey City
September	7 —	" -Jersey City
September	8 —	" -Jersey City
September	9 —	" -Newark
September	13 —	" -Syracue
September	14 —	" -Syracue
September	15 —	" -Syracue
September	20 —	Football Poly-Southern
September	21 —	" City-Fork Union
		" Patterson-Forest Park
September	22 —	" Redskins-Bears
September	28 —	" Southern-Forest Park
October	4 —	" Patterson-Poly
October	5 —	" City-Southern
October	12 —	" Navy-Duke
October	19 —	" Navy-North Carolina
October	19 —	" Poly-Loyola
October	25 —	" Southern-Loyola
October	26 —	" Mt. St. Joe-City
November	2 —	" Navy-Notre Dame
November	2 —	" Poly-Forest Park
November	8 —	" Poly-Severn
November	15 —	" Patterson-St. Paul
November	16 —	" Univ of Md.-Wash. & Lee
November	17 —	" Loyola-Mt. St. Joe
November	24 —	Football Mt. St. Joe-Calvert Hall
November	28 —	Football Calvert Hall-Loyola
November	28 —	Football City-Poly

## 1947

April	6 —	Easter Sunrise Service
April	8 —	N.Y. Yankees at Balto. (Exhibition Baseball)
April	10 —	Univ. of Md. at Balto. (Exhibition Baseball)



April	13 — Washington at Balto. (Exhibition Baseball)
April	17 — Orioles vs. Toronto
April	18 — Orioles vs. Toronto
April	20 — Orioles vs. Montreal
April	22 — Orioles vs. Montreal
April	23 — Orioles vs. Buffalo
April	24 — Orioles vs. Buffalo
April	26 — Orioles vs. Rochester
April	27 — Orioles vs. Rochester
April	28 — Orioles vs. Rochester
May	1 — Religious Demonstration
May	20 — Orioles vs. Newark
May	23 — Orioles vs. Jersey City
May	24 — Orioles vs. Jersey City
May	25 — Orioles vs. Jersey City
May	30 — Orioles vs. Syracuse
June	1 — Orioles vs. Rochester
June	2 — Orioles vs. Rochester
June	3 — Orioles vs. Rochester
June	4 — Baseball Poly vs. Mt. St. Joe
June	5 — Orioles vs. Montreal
June	6 — Orioles vs. Montreal
June	8 — Orioles vs. Toronto
June	9 — Orioles vs. Toronto
June	10 — Orioles vs. Toronto
June	11 — Orioles vs. Toronto
June	15 — Orioles vs. Buffalo
July	4 — Fireworks Display at Night
July	6 — Orioles vs. Newark
July	8 — Orioles vs. Newark
July	9 — Orioles vs. Jersey City
July	11 — Orioles vs. Jersey City
July	13 — Orioles vs. Syracuse
July	14 — Orioles vs. Syracuse
July	15 — Orioles vs. Syracuse
July	16 — Orioles vs. Syracuse
July	22 — Orioles vs. Rochester
July	23 — Orioles vs. Rochester

July	24 — Orioles vs. Montreal
July	25 — Orioles vs. Montreal
July	26 — Orioles vs. Montreal
July	27 — Orioles vs. Toronto
July	28 — Orioles vs. Toronto
July	29 — Orioles vs. Toronto
July	30 — Orioles vs. Buffalo
July	31 — Orioles vs. Buffalo
August	1 — Orioles vs. Buffalo
August	2 — Orioles vs. Buffalo
August	3 — Orioles vs. Buffalo
August	4 — Vatican Choir
August	7 — Drum Corp-American Legion
August	8 — Amateur All Star Baseball Series
August	9 —       "       "       "       "       "
August	10 —       "       "       "       "       "
August	18 — Orioles vs. Syracuse
August	19 — Orioles vs. Syracuse
August	24 — Orioles vs. Jersey City
August	25 — Orioles vs. Jersey City
August	27 — Orioles vs. Jersey City
August	28 — Orioles vs. Newark
August	29 — Orioles vs. Newark
August	30 — Orioles vs. Newark
August	31 — Orioles vs. Newark
September	1 — Md. Jr. Drum & Bugle Corps Contes
September	3 — Amateur Baseball-Touchdown Club
September	7 — Colts vs. Brooklyn
September	19 — Forest Park vs. Patterson Park (Night)
September	20 — Poly vs. Southern High School (Night)
September	21 — Variety Club (Redskins vs. Greenbay Packers)
September	26 — Southern vs. Forest Park (Night)
September	27 — Poly vs. McDonogh (Night)
September	28 — Colts vs. New York
October	3 — Patterson vs. Poly (Night)
October	4 — Forest Park vs. Calvert (Day)
October	4 — Southern vs. City (Night)
October	5 — Colts vs. San Francisco

October	11 — Navy vs. Duke
October	11 — Patterson vs. Southern
October	11 — Forest Park vs. Mt. St. Joe
October	17 — City vs. Patterson
October	18 — Veterans Inst.
October	18 — Poly vs. Loyola
October	19 — Colts vs. Los Angeles
October	24 — City vs. Mt. St. Joe
October	25 — Poly vs. Forest Park
October	26 — U.S. Marines vs. Patuxent Naval Base
October	31 — Patterson vs. Mt. St. Joe
November	1 — Veterans Inst. vs. Bucknell
November	1 — Southern vs. Charlotte Hall
November	8 — Navy vs. Georgia Tech.
November	8 — Forest Park vs. City
November	9 — Mt. St. Joe vs. Calvert Hall
November	14 — City vs. Wash. & Lee
November	15 — Navy vs. Penn State
November	15 — Patterson vs. St. Paul
November	16 — Mt. St. Joe Vs. Loyola
November	23 — Colts vs. Buffalo
November	27 — City vs. Poly
November	27 — Loyola vs. Calvert Hall
November	30 — Colts vs. Chicago
December	7 — Colts vs. Cleveland

## "RESPONDENTS' EXHIBIT NO. 2"

*Earnings And Disbursements From Baltimore Stadium*

<i>Year</i>	<i>Stadium Earnings</i>	<i>Receipts From Orioles</i>	<i>Expenses</i>	<i>Capitol Expenditures</i>
1922	\$ 13,602.12			\$209,323.41
1923	26,063.07		\$ 800.00	
1924	48,733.07		19,504.12	
1925	5,046.63		15,728.30	*365,386.99
1926	6,138.98		13,755.26	
1927	6,085.90		35,141.21	
1928	5,581.56		43,920.89	
1929	8,984.84		53,466.33	
1930	14,430.92		40,592.42	
1931	7,624.32		32,416.04	
1932	1,829.87		9,173.26	
1933	5,953.93		26,365.92	
1934	1,590.08		10,466.85	
1935	7,566.68		13,871.64	* 94,428.75
1936	11,343.26		50,923.42	
1937	6,745.11		33,419.43	
1938	8,218.73		35,490.31	
1939	19,314.38		49,646.77	
1940	11,461.57		46,372.83	60,954.32
1941	22,711.07		61,481.08	758.40
1942	32,706.09		38,486.10	
1943	29,365.93		37,639.82	
1944	91,259.56	\$ 53,133.89	60,639.14	
1945	83,896.39	44,493.89	76,875.15	25,844.00
1946	141,829.52	104,369.06	145,312.46	4,490.10
1947	123,190.51	48,677.87	59,253.52	16,343.29
TOTALS	\$741,274.09	\$250,674.71	\$1,010,742.27	\$777,529.26

\*The Capitol Expenditures in 1925 include improvements made in 1923, 1924, and 1925. Capitol Expenditures in 1935 is the total cost between 1925 and 1935.

TESTIMONY TAKEN IN OPEN COURT

(Filed 6th July, 1948)

(Tr. pp. 81-82):

HARRY Y. WRIGHT,  
1318 Lakeside Avenue

DIRECT EXAMINATION

By Mr. Driver:

Q. Mr. Wright, what is your business or occupation?

A. Secretary and Comptroller of Fidelity and Deposit Company of Maryland.

Q. Mr. Wright, in distance about how far is your home from the Baltimore Stadium? A. My home is at the lower end of the second block east of the Stadium boundardy on Lakeside Avenue.

\* \* \* \* \*

(Tr. pp. 83-85):

Q. Mr. Wright, how long have you been familiar with the Stadium area? A. That goes back many years. As a youth, I lived in the neighborhood of 22nd Street and Greenmount Avenue. The boys in the neighborhood played baseball games in what was then known as Venable Park, on the site of the present Eastern High School. It is directly south of the Stadium. Later on, as a student in City College, which was then located on Howard Street, in playing our games at Venable Park, our neighborhood games that is, I watched the construction of the Stadium.

Q. Do you recall when the Stadium was built? A. Very clearly, in 1922.

\* \* \* \* \*

Q. Mr. Wright, I would like you, for the purpose of this record and to acquaint the Court with the situation,

to tell us what the physical appearance of the Stadium area was or to describe the Stadium area immediately prior to 1944. A. On the external portion of the area, that is, beyond the fence around the Stadium structure, the major portion, approximately ninety percent, of the grounds was covered with grass and beautiful lawn. On the southern-most boundary there was fine shrubbery and evergreens. There was a scattering of trees and shrubbery on the eastern and western property. On the northern boundary there were trees and shrubs much more dense than in other portions, which in the spring presented a very beautiful appearance. The blossoms and green grass were something which were more attractive than in some of the major parts of the city. It was a definite asset to the community.

\* \* \* \* \*

(Tr. p. 85):

(Mr. Kemp Bartlett) Do you complain that it isn't there any more?

(The Witness) It has been mutilated to a point where it is not now attractive. It is an eye sore.

\* \* \* \* \*

(Tr. pp. 86-90):

Q. Mr. Wright, what improvements have been made in the area immediately surrounding the Stadium? A. Since when?

Q. Immediately prior to 1944. What was there? A. When the Stadium was built years ago there was a vast open area. As I stated previously, Venable Park was a common designation of the major portion of it. Since 1922 the entire area has been built up by residences; in some cases, group homes, in others individual cottages and semi detached homes. I refer particularly to the areas west, north and east. On the south side of the Stadium is the Eastern High School and what is left of a very small portion of Venable Park. Directly east of the Eastern High School is the Baltimore City College,

and those two buildings are two of the finest high schools in the city, from the standpoint of appearances. Also scattered throughout the community there are four or five churches of various denominations; and one public school.

Q. Can you locate the churches, Mr. Wright? A. 33rd Street, west of the Stadium, Waverly Methodist Church; two blocks east of the Stadium on 33rd Street, on the corner which would be next shown if this map were wider, is the Church of Our Saviour, a Lutheran Church; directly south of it, within about a block, is the Grace Baptist Church and St. Thomas Episcopal Church, neither of which appear on this map. In the rear of Eastern High School, adjacent to Venable Park, is St. Bernard's Catholic Church. This is the Eastern High School, City College, situated at this point, this is School No. 51, a public school; grade school (indicating on plat).

Q. Now, Mr. Wright, are you familiar with the uses which have been made of the Baltimore Stadium from 1922 to 1944? A. As to type of events, there were scholastic and college football games, very few service football games; civic, patriotic events; several religious events; Easter Sunday of each year is the Easter Sunrise Service; on Fourth of July of each year the fire works celebration. These events primarily were held in the day time. They were infrequent and many of them, the majority of them, in the fall of the year when the homes were closed.

Q. Were you familiar with the character of the construction of the Stadium with respect to what existed there prior to 1944, in the way of facilities? A. The facilities inside the Stadium consisted primarily of the football field, with a cinder track around the circumference.

Q. Was there any baseball field constructed there? A. Only on two occasions prior to July, 1944, in the



22 years of its history were baseball games played there, to my knowledge. That was many years ago.

Q. Immediately prior to 1944, or as of July, 1944, was there a baseball diamond in existence in the Baltimore Stadium? A. No.

Q. Mr. Wright, do you recall the burning of Oriole Park in July of 1944? A. Very definitely.

\* \* \* \* \*

Q. Are you familiar with the extent of the use of the Baltimore Stadium prior to July of 1944? A. The extent of the use of the Stadium prior to July, 1944, was infrequent. As I previously mentioned, in the day time and in the fall of the year. The frequency was indicated by the answer to our bill of complaint, which I have seen, not covering the entire life of the Stadium but going back to 1935 as illustration. There were forty-seven events, of which thirty-seven were between April and October. In 1936 there were forty events, of which twenty-seven were between April and October. In 1937, thirty-five events, of which twentythree were in April to October. In 1938 there were thirty-one events, of which fifteen were in the same months, April to October. In 1939 there were forty-seven events, twenty-eight between April and October. In 1940, forty-five events, twenty between April and October. In 1941, there were forty events, twenty-two between April and October. In 1942, there were thirty-five events, nineteen between April and October. In 1943 there were twenty-one events, of which ten were between April and October. Many of the events listed were events which were confined solely to the use of the administration building, such as dances and card parties, which have not been held there since the Orioles moved in.

\* \* \* \* \*

(Tr pp. 91-92):

Q. Mr. Wright, what followed in the summer of 1944 the Oriole use of the Baltimore Stadium? A. Following

the fire in 1944, we all know that shortly thereafter the ball club moved into the Baltimore Stadium. Thereafter they resumed their schedule. They had missed some games because of the lack of building facilities. Whether they brought those in as double headers or not, I don't know, but I feel certain they played the full quota of games for the season required by the League. Immediately thereafter, when they moved in, the games at night started, night after night, and this went on week after week. There were lapses, there were periods of two or three weeks when they were away, but they would come back and resume the same thing. The crowds, the lights, the traffic, the noise and the dust were repeated night after night. We have had crowds there in the past and heavy traffic in the community, but they have been on infrequent occasions. We knew what to expect, though, we could regulate our dates or engagements in inviting guests to our home accordingly. But when this got to be night after night, running for two or three weeks at a time, which included Sunday afternoons, it got to be intolerable. Thereafter the residents of the community, after filing individual complaints with the Mayor and City Councilmen and the Park Board organized after a meeting in the Stadium building, the Stadium Neighborhood Protest Committee. Officers were elected and it was determined then to arrange a mass meeting at which the community could attend. That was subsequently held in the fall of 1944 in the Auditorium of the Baltimore City College. In the meantime, petitions had been circulated through the community protesting the use of the Stadium by the Baltimore Baseball and Exhibition Company. Following that meeting at which funds were raised—

\* \* \* \* \*

(Tr. p. 93):

Q. Mr. Wright, just to be quick about it, you did have neighborhood protest meetings and you had con-

ferences with the Oriole and with the Park Board and so forth; is that correct? A. That is correct.

\* \* \* \* \*

(Tr. pp. 94-95):

Q. Mr. Wright, I hand you letter addressed to Mr. Evans dated April 10th, 1945, and ask you if you can identify it? A. I can.

Q. What is it? A. This letter is a response to a communication following a conference with the Baseball Club in an endeavor to develop some common ground whereby we could temporarily assist the Orioles in their predicament and at the same time reduce the nuisances and determine finally and definitely when they would vacate the premises.

(Letter referred to offered and received in evidence as Plaintiffs' Exhibit 21.)

\* \* \* \* \*

(Tr. pp. 95-96):

(Mr. Driver) Subsequent to that, if your Honor please, is a letter, copy of which Mr. Bartlett has handed me, addressed to Mr. George W. Reed, dated May 1st, 1945, by Mr. Evans.

(Letter referred to offered and received in evidence as Plaintiffs' Exhibit 22.)

\* \* \* \* \*

(Tr. pp. 96-97):

(Mr. Driver) I am offering letter dated May 2nd, 1945, addressed to Mr. Charles C. G. Evans by Mr. Reed, president of the Baltimore Baseball and Exhibition Company?

(Letter referred to offered and received in evidence as Plaintiffs' Exhibit 23.)

Q. Now, Mr. Wright, subsequent to that correspondence which we have referred to, were there or not

further discussions and negotiations and so forth, with representatives of the Ball Club and the City officials?  
A. There were.

Q. Will you tell us about those, please? A. I don't recall specifically the dates but we had subsequent meetings at the beginning of each season with the Baseball Club and the Park Board, with the exception of the season beginning in 1947. About that time we gave up hope of accomplishing anything except through legal proceedings. We also appeared in protest with the Mayor and subsequently had a hearing before the City Council at the time the resolution requesting enabling legislation for the Stadium loan was being considered. Last fall we met with the Council and with the Park Board in an effort to determine whether or not it contemplated renewing its lease with the Orioles. We were informed very specifically they had expected to entertain a request for a new contract and that if the request was made, they would accept it. Similar correspondence with the Baltimore Baseball Club adduced the same fact.

\* \* \* \* \*

(Tr. pp. 99-101):

(Mr. Driver) This is a letter dated September 29th, 1947, from myself Wilmer H. Driver, addressed to J. Kemp Bartlett.

(Letter referred to offered and received in evidence as Plaintiffs' Exhibit 24 and read to the Court by Mr. Driver.)

(Mr. Driver) Mr. Bartlett replied to that letter under date of September 30th, 1947, as follows:

(Letter referred to offered and received in evidence as Plaintiffs' Exhibit 25 and read to the Court by Mr. Driver.)

(Mr. Driver) Subsequent to that letter I wrote Mr. Bartlett on October 7th, 1947.

(Letter referred to offered and received in evidence as Plaintiffs' Exhibit 26, and read to the Court by Mr. Driver.)

(Mr. Driver) Mr. Bartlett then wrote me on October 16th, 1947.

(Letter referred to offered and received in evidence as Plaintiffs' Exhibit 27, and read to the Court by Mr. Driver.)

(Mr. Driver) On October 7th, 1947, I addressed the following letter to Mr. R. Brooke Maxwell, Department of Recreation and Parks.

(Letter referred to offered and received in evidence as Plaintiffs' Exhibit 28, and read to the Court by Mr. Driver.)

(Mr. Driver) On October 20th, 1947, I received the following letter from Mr. Joseph J. King, secretary of the Department of Recreation and Parks.

(Letter referred to offered and received in evidence as Plaintiffs' Exhibit 29, and read to the Court by Mr. Driver.)

\* \* \* \* \*

(Tr. pp. 101-102):

Q. Have you observed in the past any sign placed in front of the Baltimore Stadium indicating the occupancy of the Baltimore Orioles?

(Mr. Harlan) When?

Q. From 1944 to 1947. A. Shortly after the Baseball Club moved into the Stadium there was a huge sign erected on the southern boundary to the right of the entrance of the administration building, reading, "Temporary Home of the Baltimore Orioles." That sign remained there until last fall. It was painted out in November, 1947, prior to one of the games of the Baltimore City College, when the announcement of

that game was put on there. That later announcement was blotted out and the sign is presently blank.

Q. Mr. Wright,, I would like you to tell us whether or not you are familiar with the second floor of the administration building of the Baltimore Stadium? A. I am.

Q. Will you tell us what is located there and has been since 1944? A. The second floor of the administration building contains a large meeting room, approximately thirty feet wide and fifty or sixty feet long. It covers approximately two-thirds of the area of the second floor. That space is now occupied by the Baltimore Baseball Club.

Q. For what purpose? A. As its business offices.

\* \* \* \* \*

(Tr. pp. 103-105):

Q. Will you describe it to the Court? A. My observations have been very general. There are several desks at various points in the space; some temporary removable partitions to set off some of the desks; some lounges and a water cooler; a ticker over which they get sports results, sporting news; coat hangers. The general lay out is occupied as business offices with some minor lounge facilities. The entrance to that room is through a single door from the corridor, upon which is inscribed, "Permanent Baltimore Baseball Club."

(The Court) Which door is that?

(The Witness) The door on the second floor of the administration building which leads off the corridor into the meeting room; to the left of the corridor on the corridor as you go upstairs. That is the room that was formerly used for various dances and meetings of organizations, community organizations, women's clubs, and other similar groups for dances and meetings.

Q. Have you personally attended meetings of various civic associations in that room prior to 1944, Mr. Wright?

A. I personally did not attend any meetings in that room prior to 1944.

(Mr. Kemp Bartlett) But you have since held protest meetings?

(The Witness) In the early part of our preparations for our protests, our meetings were held in that building upon solicitation of the Park Board. More recently, however, and I refer particularly to the group known as the Greater Northeast Building Association of which I am a director, I was invited to attend a meeting to be held by it at the Stadium building. When I arrived there, this was after the Ball Club had moved in, I was directed to the Men's Locker Room on the first floor, access to which was through the men's toilet.

Q. What facilities did you have for that meeting?

A. Folding chairs and a table were installed. For some of the members there were the usual benches that a locked room is equipped with along the side.

Q. There are some ladies who are members of that organization? A. There are but they were not present.

Q. Was there any other approach to that locker room other than through the men's toilet? A. Only by going through the administration building, out into the playing field, and into another door.

Q. In other words, that was the area that was made available to you on that occasion, is that correct? A. That is correct.

(Tr. pp. 107-113)

Q. Will you tell us whether there is or has been any noise coming from the use of the Stadium by the Baltimore Orioles, and if so, what it has been and how it has affected you? A. Very definitely there is noise coming from the Stadium. Part of that emanates directly from the Stadium grounds, part of which is the result of the traffic moving to and from the Stadium.



It is particularly acute when the games are over. Traffic coming west from the—going east from the Stadium on Lakeside Avenue must stop at the stop sign about 150 feet east of my home, on the Alameda. Automobiles back clear up to beyond the preceding intersection. At that time of the evening the folks are anxious to get home, they want to get moving. Whether they go home or not, I don't know, but they toot their horns and yell about the Orioles 11:15 or 11:30 at night. If you have attempted to retire earlier and are awakened by that, everyone knows what it means. Sleep has been broken and you find it difficult to go back. You are immediately incensed over the situation and you can't get your proper rest. That happens repeatedly, night after night when games are being played. The noise of the loud speaker, notwithstanding what might have been an effort made to reduce it or tone it down, you can hear announcements an hour before the game starts and music that is played preceding the game; the line-ups, the spot announcements, calling doctors, announcing license numbers of cars which are illegally parked, and the scores of the games of the two major leagues and the other teams in the International League. That goes on until the time the game is over.

Q. Mr. Wright, let me ask you this: Are you able to tell the Court how far the loud speaker employed at the Stadium during those Oriole games, how far it can be heard? A. That speaker can be heard on Greenmount Avenue. It can be heard over as far as Lake Montebello. How far into the lake, I don't know. It can also be heard on some occasions—I have been seated on the porch of my sister's home where I was raised, between 23rd and 22nd Street and have heard announcements from the loud speaker at that point.

Q. How loud is the noise from the loud speaker at your home on Lakeside Avenue? A. If you sit on the front porch or terrace, front or rear, and endeavor to conduct a normal conversation you are frequently

interrupted by the announcements of the loud speaker. If you attempt to retire, after a while you get accustomed to it, but the din and roars just do not permit normal comfort.

Q. Can you hear what is said over the loud speaker at your home? A. Not distinctly. It is just a raucous grating.

Q. You said something about the use of the loud speaker. Prior to the beginning of the baseball games of the Orioles, you spoke of the use of the loud speaker. Could you tell us what use is made of the loud speaker before the game and if so, how long before the game? A. It is generally utilized to entertain the early comers of the ball game. They play music, in my opinion, frequently what is an unsatisfactory type of music. Some loud boogie woogie that no one with real intelligence would enjoy. You have announcements of forthcoming events, not only in the Stadium but in other parts of the city. There are also dialogues, transcriptions of dialogues between some of the radio comedians put on the loud speaker, which is also obnoxious. You cannot intelligently understand it.

(The Court) Do you mean you object to the dialogue or the way it is produced?

(The Witness) I can't understand the dialogue, in the first place, and in the second place, I don't like my radio programs over a radio loud speaker that can be heard within a radius of six or eight blocks. If I want entertainment I will get it from my radio. If I don't want it, I can turn it off. But I cannot turn it off from the loud speaker at Oriole Park on 33rd Street.

Q. Mr. Wright, when did these night games begin? Take first a double header, if there are any at night, and then a single game? A. I may not have these years entirely correct, but prior to 1947, through a slight effort to mitigate our nuisances, the ball club advanced the

starting time of its night game to 8:15 with the understanding that no inning would commence after 10:45. In 1947, however, they were back to the old starting time of 8:30. Mainly, on the average, the games terminated fifteen minutes later than previously. When double headers are scheduled they start at 6:30 in the evening. On Sunday they start at two o'clock in the afternoon. Double headers usually extend over a period of approximately four hours from game time.

Q. How long before the actual beginning of these games does this music and entertainment, so-called, begin under the loud speaker? A. I can't say accurately, but I would judge from experience that it starts an hour or three-quarters of an hour ahead of game time, as the crowds begin to gather. If there is any small crowd coming in they don't start. But if the crowd looks like it is going to be sizeable they start it early. It appears that way, anyhow.

Q. I Want to ask you, Mr. Wright, to tell us about the lights emanating from the Stadium when the Oriole baseball games are played there. Will you describe that to the Court, the effect of them upon your property and your neighbor's property? A. On the rim on either side of the Stadium, that is the west and east sides, on each rim are three standards with a battery of lights at the top of each. I don't know the heighth, but I dare-say they are eighty or ninety feet in the air from the street level; possibly higher. The spill from those lights and direct glare illuminates the entire community. Even as far away as I am, if there were no street lights they would not be missed, you could see your way around. The particular nuisance to me from those lights is the light on the center of the western rim that shines directly down Lakeside Avenue. If you turn into Lakeside from the Alameda, walking or driving, you are blinded by the glare of that light. The same thing is true in the alley. If you drive in to park your car you get from that same standard—

Q. Do you know how many lights are in one of those batteries, Mr. Wright? A. I don't know, I judge twenty or twenty-five, maybe more, lights in each battery.

Q. What effects do those lights have on the property of your neighbors that you can see from your home?

\* \* \* \* \*

(Tr. pp. 113-117):

A. It isn't difficult to discern. You can walk around your grounds in any part, on the east or west side of the Stadium, and get the full effect of a battery of lights broadside. It comes into the bedroom windows, whatever rooms are exposed to that side of the house. This, of course, interferes tremendously with the enjoyment of those homes.

(Mr. Harlan) I move that be stricken out.

(The Court) Strike that out. You cannot state how it affects those people, but you can tell what you can see in the neighborhood.

Q. What effect, if any, do those lights have upon your use of your own property, 1318 Lakeside Avenue? A. In so far as the direct effect on the use of the home itself is concerned, it does not affect me too much. My house is situated north and south. There is a reflection from the homes on the south side, particularly those that are painted white. You can get a glare from that in the bedroom window, which means you have to keep the shades drawn. It does not shine directly because of the situation of my home. If my home faced it, looking up to the Stadium, I would not need any lights inside when the Stadium lights were on.

Q. Mr. Wright, how late are these lights on? A. Those lights are usually on until the game or games are over and the crowd disbursed. I would estimate they are turned off within fifteen or twenty minutes after the crowd leaves. That means on some evenings as late as

11 or 11:15; other evenings earlier. On the average I would say around 10:45 to 11 o'clock.

By Mr. Driver:

Q. Mr. Wright, I would like to ask you, sir, what, if anything, you have observed with respect to dust on the occasions when the Orioles use the Baltimore Stadium?

A. As stated previously, the grass has been practically eliminated from the parking areas, as the result of the constant use for the parking of automobiles. In dry spells crowds pass back and forth over that area, huge clouds of dust are stirred up which encompass the entire neighborhood. You can be within a half block of the Stadium area and the Stadium itself will be blocked out by the dust that is raised. That dust, or course, gets into homes. My wife complains of it, as do the wives of other people in the neighborhood.

Q. Are you able or not to keep the windows in your home open during the summer time when the Orioles are playing there? A. We keep our windows closed most of the time because of that very condition; but there comes a point, however, when you have to have some air and ventilation and it is necessary to open windows. When the windows are open it creates a condition where Mrs. Wright has to dust more frequently and it gets into the rugs and furniture, upholstery of the furniture, and generally creates a bad condition.

Q. Mr. Wright, I believe I forgot to ask you this. When did you buy your home on Lakeside Avenue? A. I bought my home in February, 1944. I moved in April 1st, 1944.

\* \* \* \* \*

(Tr. pp. 117-120)

Q. I would like to ask you this. I believe you have already testified you participated in the preparation of the map which has been offered as an exhibit in this case and you have identified what that map shows. I would like to ask you whether you know how many

properties are represented on that map that are colored. A. Approximately 140 in addition to the properties of the 27 complainants.

Q. I would like to ask you what, if any, effect you have observed—before I come to that, going back to the dust question we mentioned a minute ago, can you tell us whether or not the dust situation which you spoke about occurs frequently or infrequently? A. It occurs whenever there are events in the Stadium. Now, of course, there are times when we have a rainy spell. Thereafter the area I have previously mentioned is covered with mud. The automobiles drag the mud through the streets in the neighborhood. When it dries, it is blown into the homes and over your porch and lawn furniture, over the porch itself, and creates as bad, if not worse, a situation than when the dry spells are on. When games are not in progress, after a dry spell the slightest breeze will stir up that dust and spread it around the community.

Q. I would like to ask you what, if any, facts have you observed with respect to the crowds that attend these games? A. By and large, the crowds that attend the events in the Stadium are orderly, know how to conduct themselves. There are many good substantial citizens who know how to consider the property and privacy rights of residents in any event. There is, however, an element I have observed passing my home which creates such conditions as this; on a hot Sunday afternoon cars will be parked on both side of our street beyond and away from the Stadium. They will get out of the cars in a somewhat intoxicated condition., with a ten gallon garbage pail loaded with ice and beer. There is no beer or liquor sold in the Stadium. That does not prevent them from carrying it to the games. They come in their undershirts. They go home from the games without any undershirts or shirts at all, sitting out in the sun. Now, that will be all right on the beach but not in front of my home on a Sunday

afternoon, when I have guests and my wife and I are sitting on the porch. It is extremely unsightly. It is not the sort of thing you bargain for when you buy your home.

Q. What, if anything, have you observed with respect to literature strewn about the neighborhood on the occasion of the use of the Stadium by the Orioles?

A. There is paper and trash generally around the entire community. I am far enough away that I don't have as much as I have heard other neighbors complain of. But on Sunday morning, after a Saturday night game, when I pass through the area on my way to Mass, paper and trash covers the entire parking area, the streets, the property of the Eastern High School, Venable Park and homes in the general neighborhood. Paper, paper cups, paper napkins, bottles, glass, numerous other things that could be mentioned.

Q. Is that situation which you have just mentioned frequent or infrequent? A. It is constant after games.

Q. After what games? A. After the ball games. There are numerous concessions around the parking area. People buy hot dogs, soft drinks, and they throw the trash around. If any receptacles are provided, they are not wholly inadequate, but the crowds don't use them and it results in a most unsightly appearance.

Q. Mr. Wright, you bought you home two or three months before the Orioles came into the Stadium, did you not? A. I did.

\* \* \* \* \*

(Tr. p. 121):

#### CROSS-EXAMINATION

\* \* \* \* \*

(Tr. pp. 123-125):

Q. How many evenings during the month of April last year did you find an objectionable use of the Stadium by the Orioles? A. Mr. Biddison, I can't



answer that, nobody in this room could, for the simple reason that we don't catalogue or maintain a log of the events or the nuisances which are committed. It is a general thing. Wherever there were games played the nuisances prevailed. When the games were not being played, we don't have the nuisances.

Q. How many times a week last April did you find objectionable the use of the Stadium by the Orioles?  
A. I can answer that the same way. In April, your home isn't as open as it is in July or August. The games of the Ball Club aren't very largely attended and there isn't that excitement prevailing that applies in July and August, the middle of the summer, when your homes are wide open and you have these hot, humid nights such as prevail in the city of Baltimore.

Q. Then I understand you have no complaints about the months of April and May of the use of the Stadium by the Ball Club? A. I have complaints from the time that the games start in the season until the fall. The intensity of that complaint varies as the season progresses and as it wanes.

Q. During the months of April and May is there any complaint on your part about the dust? A. If there is a dry spell certainly there is complaints.

Q. In regard to this dust situation, did you find it objectionable? A. I did not catalogue the specific days on which I had complaints. As I stated previously, this aggravation accentuates as the season goes on, until it culminates at the end of the season.

\* \* \* \* \*

(Tr. pp. 125-126):

Q. Were there any nights at all where there was no objection from you as to the noise or dust? A. There was some evenings after a sprinkle and the crowd was small and it usually was after a shower or there was an intimation it might be a rainy evening, I would say

there was no complaint from dust. But after a spell of about a week or three or four days of dry weather, even a small crowd would send dust around the neighborhood.

Q. Were you aware of the fact that the ground surrounding the Stadium had been sprinkled with a saline solution, calcium chloride?

\* \* \* \* \*

(Tr. pp. 126-129):

A. In my opinion. I am not an expert on that, but I saw no benefits after it was done.

Q. At the time you purchased your home lights were on in the Stadium, were there not? A. There were.

Q. And night contests had been held in the Stadium prior to the time you purchased your home, had they not? A. Very infrequently, and as a rule, in the fall of the year when your homes are closed.

Q. Your objections to the use of the Stadium, that is, as to all of these events, are confined solely to the use by the Ball Club, are they? A. Our complaint is against the use of the Stadium by the Orioles, and the nuisances which arise from the constant repetition of these events night after night.

Q. Do the same nuisances arise by virtue of other organizations using the Stadium? A. It would be foolish for me to say they don't, because they do. But they are quite infrequent. They are in the fall. The noise isn't as noticeable. The dust is less objectionable because the ground is frozen or it is wet, and you don't have it night after night and two and three weeks at a stretch.

Q. When you say night after night, do you mean to tell the Court they played every night in the week at the Stadium, the Orioles? A. There are periods during the summer when the Orioles play two and three weeks

consecutively. A rain storm will break it up for a night or two, then it means double headers to catch up.

Q. Did they play last summer in any month three weeks consecutively? A. They wound up the season with a three week stretch of games or approximately three weeks, then there was a break of two or three days, when they played some games to meet another schedule in another city, then returned.

Q. They wound up the season with three weeks consecutively of night games, did I understand you to say? A. There were some Sunday afternoon games.

Q. And the rest were night games? A. The games in the week are at night.

Q. By that, then, you mean to tell the Court that they played fifteen night games consecutively three weeks in a row? A. Mr. Biddison, there is occasionally a break of a night when the visiting teams change. There is occasionally a break when there is a rain storm. I did not keep a log of the specific nights, but everyone in this Court knows when the ball team is home it is home for two and three weeks at a stretch and goes away for two and three weeks at a stretch, and when it is home, it plays every night or every other night.

Q. How many times consecutively last summer do you say the Orioles played during the month of August?

\* \* \* \* \*

(Tr. pp. 129-130):

A. I can't specifically say the exact number of nights.

Q. Could you say how many nights per week during the month of August? A. No, I can't say that. There have been periods of two or three weeks when the games would go on almost constantly, night after night. There will be a break because of a change of teams.

Q. When you bought your home, of course, the lights were in the Stadium for night use? A. That's right.

Q. Were the lights changed so that they protected the lighting in your neighborhood, by the Orioles? Did the Orioles make any change in the effective lighting in your neighborhood? A. The installation of the two standards in the lower part of the field did not affect my end of the community.

Q. So that the lights, then, are, so far as affecting your community, after the Orioles came there, the same as they were before; isn't that correct?

(Mr. Driver) He did not say that.

A. The position of the standards were the same and the adjustment of the lights was approximately the same. I don't know. You will have to get the technician here who may have adjusted them.

Q. We understand your end of the community was not affected by the change in the lighting when the Orioles were there? A. It was night after night. It had not been used that way previously.

Q. Do you attend the baseball games at the Stadium? A. I have attended some games.

\* \* \* \* \*

(Tr. p. 131):

Q. How much did you pay for your home? A. My present home, \$12,000.

Q. What do you consider its present value? A. I don't know, I haven't inquired. I haven't been interested in selling until I know the outcome of this suit.

\* \* \* \* \*

(Tr. p. 134):

Q. Mr. Wright, during the summer months, what are your normal hours of retiring? A. My normal hours of retiring the year round are about ten to ten-thirty in the evening.

\* \* \* \* \*

(Tr. p. 134):

Q. Actually, then, in most instances during the summer when you retire the ball game is over, is it not? A. No, that is not so.

\* \* \* \* \*

(Tr. pp. 134-135):

Q. I understood you to say in most instances the ball games are over by 10:45? A. The ball games are over at 10:45—

Q. The lights were out, I understood you to say. A. 10:45 to 11 o'clock. Occasionally, if an inning is in progress, it goes beyond 10:45 until the inning is concluded. But on frequent occasions after I have retired, gotten to sleep, the machines come out of the Stadium area and create the noises which I have previously stated.

Q. Your complaint, then, as disturbing your sleep involves the complaint, with regard to a maximum hour, of about a half hour on these isolated instances through the summer and the nights they play ball; is that correct? A. It disturbs my rest. After you are awakened by the tooting of automobile horns and the riotous clamor in front of your home, you can't go right back to sleep like that (illustrating by snapping fingers).

Q. You have testified to a huge sign being in front of the Stadium. What are the dimensions approximately of that huge sign? A. That sign is about seven to eight feet high and twelve to fifteen feet wide.

\* \* \* \* \*

(Tr. p. 136):

Q. With regard to this place on the second floor of the administration building, actually in that room do you know whether or not the Board of Park Commissioners hold their meetings throughout the year? A. I don't know, but I would not assume for a minute

that the Park Board would permit the Ball Club to prevent it from using the administration building space.

Q. And you don't contend to the Court that the Ball Club has the exclusive use of that second floor premises of the Stadium, do you? A. So far as the general public is concerned, I would say they did.

Q. Are you familiar with the use of that room when the Navy football team comes to Baltimore and plays in the Stadium? A. That is by an express contract between the Navy and the Board of Park Commissioners. They are, I understand, permitted to use that room, although some disagreement has arisen in the past as to whether or not the Navy could use it exclusively.

\* \* \* \* \*

Tr. pp. 137-138):

(Mr. Biddison) We would like to find out from the witness, just what he means by no one with real intelligence would enjoy such music. A. I will put it this way. The average person, we will say, of normal intelligence, reclining in his home for peace and relaxation, does not want to be disturbed by a lot of boogie woogie music coming over a loud speaker. He may enjoy it for a few minutes on the radio, he may get a lot of hilarity out of it, but he does not enjoy it as a forced entertainment, which is half testing, not clearly amplified, when he is trying to get some peace and relaxation in his home.

\* \* \* \* \*

(Tr. pp. 139-140):

Q. What objections do you have to lights illuminating the street in front of your home? A. The principal objection to those lights, as I mentioned previously is when I am coming up the street to my home, driving or walking, coming up the alley to put my car away, the battery of lights shines directly in my eyes. Any-

one driving up Lakeside Avenue when those lights are on, can observe that peculiar phenomena.

Q. Do you state that lights destroy your ability to properly drive your car on that street? Are they a hindrance or help? A. Anything that interferes with the access to my home is a nuisance.

Q. And it does actually destroy your ability to drive your car on the street, does it? A. It is blinding, it is dangerous. I have to be exceedingly cautious when I drive. I could not see a man walking across the street because of the glare of those lights.

Q. Are they any different from the glare of a light approaching you in the opposite direction, lights of an automobile, while you are normally driving on the highway? A. Quite different.

Q. And they are how far away from you? A. The battery of lights of which I speak is approximately four blocks from my home.

Q. Was the dirt on your street washed away at any time by the street cleaning department? A. I have a very amusing answer to that. On only one occasion did I ever observe a sprinkler on my street and that was the first day after the City put a ban on the use of water by residents of the City last summer; the only time, to my knowledge, that the street has ever been sprinkled.

\* \* \* \* \*

(Tr. p. 141):

Q. With regard to this littering of the general neighborhood of the Stadium, did the street cleaning department at any time clean up your community or is it perpetually littered? A. I think some effort is made to clean up that debris, but when the game is held on Saturday night they are not out there before daylight next morning, so that the community looks respectable



on Sunday morning. That trash lies around until another game Sunday afternoon, when it is added to.

\* \* \* \* \*

(Tr. p. 142):

Q. After other games of other sports, is there any litter outside of the Stadium then? A. Certainly there is some litter around the Stadium, but that is infrequent.

Q. When you bought your home at the Stadium, did you expect after games there would be some litter there? A. Certainly.

Q. You certainly did, didn't you? A. The infrequent use of that Stadium and the kind of event that was held in the Stadium enhanced the neighborhood. A college campus atmosphere prevailed. We have had large crowds at football games, Easter Sunrise service, fourth of July celebration. No complaints were ever made until on one occasion they attempted to have midget automobile races there. The neighbors protested and the events were discontinued.

\* \* \* \* \*

(Tr. pp. 142-143)

Q. \* \* \* Were the conditions in 1947 that you are complaining about equally bad as those that existed in 1946? A. There we get into an element of degree. The crowds were not as numerous or as large in 1947 as in 1946 on a normal occasion, to the best of my knowledge.

Q. As a matter of fact, during 1947 weren't there many occasions when there were quite small crowds there and when you really had no annoyances at all? A. We had annoyances but they varied as to type. When the crowds weren't large, the dust, the noise, and the traffic situation was less. The lights are always there whether there are ten people or ten thousand,

but the dust, the noise in the streets, parking inconveniences vary as the size of the crowds vary.

\* \* \* \* \*

(Tr. p. 144):

### CROSS-EXAMINATION

By Mr. Robert Bartlett:

\* \* \* \* \*

(Tr. pp. 147-148):

Q. Mr. Wright, is it your feeling that the City of Baltimore should endeavor to maintain a college atmosphere around the Stadium property? A. I think that the City of Baltimore owes a moral obligation to the people in that community, who bought their homes with the full knowledge that it was used for certain collegiate, scholastic and civic activities, and for no other purpose, and if it turns it into anything else, it is acting in bad faith to the residents of the community and is going to destroy a wonderful residential area.

\* \* \* \* \*

(Tr. p. 153)

### CROSS-EXAMINATION

By Mr. Cross:

\* \* \* \* \*

(Tr. pp. 153-154):

Q. When you purchased the house did you know of any prohibition on the use of the Stadium at any time? A. My definite understanding was that that was park property, it was used infrequently for civic and scholastic activities, and it did not present an inconvenience to the neighborhood except on a few isolated occasions.

\* \* \* \* \*

(Tr. pp. 157-161):

Q. Have you ever asked that your street be made a non-parking street on any occasion? A. I have not because that would not solve anything.

Q. You have never tried it, so you don't know, do you?

A. I know that there have been occasions when no parking—when parking is prohibited. That does not solve anything.

Q. Do you mean they violated the signs and parked in there? A. There has been some of that. The signs have actually been torn down by people coming to the game. What I am referring to is the fact in the normal use of my home, in the repetition of events night after night, I can't have my guests call on me in their cars because they can't park close enough to my home. That is either due to the fact there is no parking permitted or if parking is permitted, the patrons of the ball game have the streets filled with their cars.

Q. But if there is no parking on the streets, you have eliminated one of the objectionable features, have you not? A. No. It is the traffic coming down the street after the game is over that causes the major portion of the noise resulting from the automobiles.

Q. How do you know all that traffic is coming from the Stadium, Mr. Wright? A. Because when a game is not in progress there in the evening, there is just a trickle of traffic. Our street is on what might be termed a side street, it is not a major artery.

#### REDIRECT EXAMINATION

By Mr. Driver:

Q. Mr. Wright, I would like to ask you this. When you bought your property did you know whether or not there were any restrictive covenants contained in the deed? A. I did.

Q. What were those restrictive covenants? A. My property is restricted to such an extent that I could not put up a sign on my home except of a prescribed size,

and then only in the event of an advertisement for the sale or rental of my home. I am restricted as to what changes in the exterior appearance I can make. I am restricted as to keeping any livestock, chickens, rabbits, cattle or anything of that sort there. In other words, there are some very definite restrictions as to the use of my home as a resident in a residential community, and at no time can it be used for commercial purposes.

Q. Were you familiar with the zoning of that area of Baltimore City at the time you bought your house?

A. I was.

Q. What was that zoning you were familiar with?

A. The area in which my future home then was to be located was zoned for residential use only.

### RECROSS-EXAMINATION

By Mr. Harlan:

Q. Mr. Wright, you knew that the Stadium was used for big games and not as a residential property, did you not? A. Yes, but I don't catalogue that as a commercial enterprise.

Q. What is your cataloguing for commercial enterprises? A. The difference is this in my opinion. The Church on the corner of Alameda and 33rd street can have a moving picture show in their basement for the Ladies Aid Society or some other charitable purpose. But if I were to try to build a moving picture theatre on the corner and charge an admission for private gain, which is what the baseball club is operated for, I could not do it. The same thing is true of the events in the Stadium.

(Tr. pp. 161-162):

FREDERICK E. GREEN

1200 East 33 rd Street

DIRECT EXAMINATION

By Mr. Driver:

Q. Mr. Green, what is your business? A. Wholesale fruit and vegetables.

Q. How long have you been in that business? A. A little over 31 years.

Q. Do you have a place of business in Baltimore? A. Yes, sir, 15 East Camden Street.

Q. You have told us that you live at 1200 East 33rd Street, Mr. Green? A. Yes, sir.

Q. When did you buy that property? A. 1943, August of 1943.

\* \* \* \* \*

(Tr. pp. 162-163):

Q. I would like you to tell the Court what the Stadium area looked like physically when you bought your home?

A. The surroundings there at the Stadium were very good and attractive. The shrubbery was good. The flowers in the spring and those that bloom on through the summer were very good scenery. That continued on until 1944, when the Orioles moved in on me.

Q. You live in the first house east of the Stadium? A. That's right.

Q. I would like you to tell the Court what your property there consists of, Mr. Green? A. Well, I have a house there about 36 by 50; seven rooms, sunparlor, double garage on the back, stone wall on the Ednor Road side, with ornamental fence on top of it.

\* \* \* \* \*

(Tr. pp. 163-173):

Q. I say I would like you to make clear to the Court the direction that stone wall you spoke of takes? A. That runs north and south.

Q. Along the west side of your property? A. The west side, yes.

Q. Mr. Green, were you familiar with the uses which had been made of the Stadium before July, 1944? A. Yes, pretty well posted on it.

Q. What were those uses? A. They were for the schools, colleges of the city, and very large football teams from out of the city and in the State came there to play. Those games were mostly played on a Saturday afternoon, except some fire works there on the 4th of July, the Easter Service there on Easter morning.

Q. After July of 1944, I would like you to tell the Court in your own way, Mr. Green, what you observed with respect to the Orioles use and occupancy of the Stadium? A. The first Sunday, your Honor, that came along there, they nearly tore my place up. The lawn they were running up on, laying on it, going over to the hydrant, turning it on, sometimes as much as fifteen people at the time would be right around there drawing water and drinking it; taking their cups and throwing them on the lawn, bottles and everything of that description.

Q. Did you make any complaints about that? A. Yes, I complained to the people and they just sneered at me, "Oh, go in the house, you big boob."

Q. How often did that happen, Mr. Green? A. Every half hour on the first Sunday they were there.

Q. How long after that first Sunday did this situation continue? A. Through that whole season and on until I took a stone wall across the front with a locked gate on it, then a good many times they get over that wall. I said stone, but it was brick and stone.

Q. You had a stone wall erected along the west side of your property? A. That is right.

Q. Now, you have told the Court that you put the brick and stone wall across the south side of your property? A. That's right, across the front.

Q. Will you describe that wall as to heighth and so forth? A. Your Honor, that brick part of the wall on the west end is 30 inches; the east end I think about three feet because of the drop there, the grade of the lot. On top of that brick wall I had sharp stones put on top, cone shaped like, about ten inches high, set in cement, to try to keep them out. But when they want to get in they go over the top of the wall.

Q. When you say "when they want to get in they go over the top of the wall," whom are you referring to? A. I am speaking of part of the crowd, not all of them, that come to the ball games.

Q. I would like to ask you what, if anything, have you observed with respect to the dust coming off that parking lot? A. Your Honor, after those automobiles and trucks and walkers go through that soil, if there is any breeze blowing at all I have seen it so you could hardly see the Stadium at all, and we are getting it at all times, unless the wind would be east, then, of course, on the other side it would go that way.

Q. Are you able to keep your windows in the house open in the summer time when the Orioles are playing there? A. We keep no windows open on the north, west, and only two on the south, and we have five windows on the side, on the lower floor.

Q. How often have you observed that dust coming off that parking lot? A. Every day and night when they were playing there, unless the wind was east or we were having rain.

Q. Now, Mr. Green, I would like you to tell the Court how the lights affect the use of your home? A. Well,



the lights are so bright there on the second floor, I can sit at the window and read a newspaper without any other light in the room. Downstairs we cut off some of that glare by awnings.

Q. Where are the bedrooms located in your house?

A. Second floor.

Q. Are any of them on the west side of the house? A. Yes. The middle room is entirely on the west side. The back room, two windows on the north but there is no window on the west; but we still get that glare so bad in that back room that you can go in there and dress or undress or sit by the window there and read a paper. In the front room there is one window comes from the west, but between the bedroom and this window there is a dressing room of about five feet square, and we have to keep that window shut and the door closed to keep the glare out, and the curtain down.

Q. How does it affect your ability to go to sleep in the evening, Mr. Green? A. Hardly any sleep at all when the Orioles are playing. The crowd seems to gather anywhere from five o'clock on and continues going and coming up until 11 and 12 o'clock at night. Many nights I am going to work and the crowd is still hanging around there.

Q. I was about to ask you about that. What time do you ordinarily go to work? A. It varies. I arrange my time to go to work according to the goods I receive. We receive goods all the way from the Canadian line to Homestead, Florida, every State mostly down the line. I have telegrams and long distance calls advising me on about 95% of the goods that is coming in, we will say, that night to be handled. I can judge those trucks pretty close with fair weather conditions. I have porters, and now I have my son there, at twelve o'clock at night. If the trucks start to arrive before I get there my son is calling me and telling me they are arriving. Ordinarily,

in the summer time, I go to work anywheres from 11 to 2 o'clock, occasionally 3; winter time from 2 to 4.

Q. Ordinarily when do you try to get some rest? A. About the only rest I can get during the ball season there is in the afternoon when I get home, around two or three o'clock, sometimes at four, five and six when I get home, and in those days I don't get any sleep practically at all.

Q. I would like you to tell the Court how the noise affects you and the use of your home? A. Your Honor, the noise anybody can hardly describe it because it is one thing just after another. There are hundreds of buses pulling up there, the crowd getting off whooping and hollering, going over there, and for an hour at least before the game starts they have a loud speaker over there that can be heard to Harford Road or Greenmount Avenue, because I have heard it. I have traveled both ways. That keeps on going for at least an hour before the game until they close down. That crowd, if the Orioles are winning, brother, they have more cow bells and horns than Buffalo Bill ever had with his show.

(The Court) You can't hear what they say to the umpire at your house, can you?

(The Witness) I am pretty hard of hearing but I know they say something.

Q. Mr. Green, let me ask you this. I would like you to tell the Court in your own way what tracks you have observed in connection with certain elements coming to this game using your property as a lavatory? A. Your Honor, that happens I think every day that there is a game there, and sometimes I am sure every night, and when I say lavatory use I mean both number one and number two. The walls we just spoke of on the west side, there ain't many days during ball season that I don't wash that down, inside and out, to keep the odor down. In the back of my garage, on the east end of it, there is a space of about eight feet where shrubbery has

been planted but some of it has died out. That is used continually every night and probably in the afternoon too, on Sunday afternoons. Every once in a while I have to rake that off and lime it and throw water into it to get rid of the odor.

Q. Now, Mr. Green, I want to ask you this. Did you have any of these complaints you have spoken of prior to July of 1944? A. No. sir

Q. Mr. Green, I would like you to tell the Court about this. In addition to the activity that goes on in the Stadium when these games are going on, what, if any activity is going on around your property? A. Your Honor, I have a driveway and yard in front of my wall I spoke of on the west. Three cars can be parked in there. I have come home on more than one occasion and found three cars there. I could not get my own car in the garage. I would have to go over to the corner to get a police and try to get some of them out so I could get my car. I have had to go out at night on early business, when I would have to do the same thing, get the police to get the numbers called out and get the people to come get them. Sometimes it would be as much as an hour getting away or an hour getting my car in the garage.

Q. Are there any street vendors operating there when the Orioles are there? A. Oh, we have any number of them. Peanuts, popcorn, lemonade, sandwiches, everything. Sometimes they come on the pavement and sometimes they stay in the street.

Q. Where do they work? A. As a rule right at the corner of 33rd street down the Ednor Road side.

Q. How much did that brick wall you put across the front of your property cost you? A. A little less than \$900.

Q. What condition is it in today? A. Well, the wall is in good condition except from the outside. They come

there and back up against it, put their feet up like that (indicating) and scratch it. It hurts the looks of it. The pillars on the corner, something on this order (indicating) has a concrete piece about two and one-half inches by eighteen, fastened on these pillars. There are two of those entirely broken loose from grabbing it and pulling themselves up and sitting up there. I have to get a man to fix that now. In fact, I have ordered the man to come fix it.

Q. Has there ever been an occasion when the people who attend these games come up on your front porch?

A. Yes, plenty of them. I have had as many as fifteen on the front porch and the back porch filled at times.

Q. Did you complain about that? A. I certainly did.

Q. What was the result? A. Well, they said, if you will excuse the expression, "Go to hell, get in the house."

Q. Have you heard profanity there on more than one occasion A. Dozens of occasions

\* \* \* \* \*

(Tr. pp. 174-175):

(The Witness) I complained to the people there. I went to the police headquarters more than one time, down to see the Commissioner. I didn't talk to the Commissioner because I wasn't able to see him, he was unable to be seen, but I talked to the officers on duty.

Q. You have told us, I believe, that these things you have complained about did not exist prior to July of 1944? A. Absolutely not.

#### CROSS-EXAMINATION

By Mr. Harlan:

Q. Mr. Green, what did you pay for your property?

\* \* \* \* \*

(Tr. p. 176):

(The Witness) All right. \$13,500 if that does you any good.

Q. At what do you value your property as of today?  
A. I don't put any value on it. It is my home. I want to live there and I want to live in comfort.

Q. Do you have any value in your mind as to its worth today? A. No, I have no value in my mind. I bought it for a home, your Honor.

\* \* \* \* \*

(Tr. p. 177):

Q. You knew there were lights on the Stadium, did you not? A. Yes.

Q. And that there had been night functions out there?  
A. Only two I can recall. One was fourth of July and the other was a convention that was being held in Baltimore, I think in 1939.

Q. Didn't they have high school football games out there at night? A. No, I don't know of any.

Q. You knew they had functions out there in the day time, of course, big football games? A. Oh, yes.

Q. Since 1943, they have had very big football games, have they not? A. Oh, yes, they have had some football games there.

Q. You have had people park in your driveway at these big football games? A. On one or two occasions, but they come up to my house and ask permission.

\* \* \* \* \*

(Tr. p. 178):

Q. Was there any sign on your driveway referring to no parking? A. The Police Department put a no parking sign right at the entrance of my back yard, "No parking in this alley."

Q. When was that put there? A. I think that was put there when the Orioles came in. I don't remember seeing it before.

Q. And despite that sign, the automobiles did park in the alley? A. Well, more than you could count, sir.

Q. Did you ever swear out a warrant or do anything about formally complaining against the various people parking there? A. No, I didn't know who they were. There are no courts open at night that I could get a warrant.

(Tr. pp. 179-181):

Q. As to these people coming on your lawn and on your porch, did you ever make any formal complaint to the police about that? A. Oh, yes.

Q. Did you ever swear out any warrant against them for trespassing? A. No, if I would go down and get it for John Doe they could be in New York before anybody could serve the warrant.

Q. Did you ever request the police to stay there and watch your property? A. Yes, I have, and I have had them come in the house and sit down and talk it over. I went to headquarters several times.

Q. Did you ever make any complaints to either the Board of Recreation and Parks and the Baltimore Baseball Club in regard to these people trespassing on your lawn or in regard to the people parking in your alley? A. I wrote one letter to one member of the Park Board. I was about thirty days getting an answer, and that didn't come from him, that came from the secretary.

Q. Mr. Green, going to the question of dust, when is the dust bad there, after the game when the people leave or as they come there or just when? A. Well, that dust is moving continually from the time the first automobile pulls in there until the last one goes out at night.

Q. How long, over what period would that be? A. That varies. Some nights longer than others. Some afternoons longer than others. Mostly in the afternoon. It is from two o'clock until five or six, sometimes as late as seven.

Q. How long does it take to settle after the people have departed? A. That varies too. Sometimes if the wind isn't heavy, it will settle down very quick. If the wind is heavy then it will blow right on for two or three hours.

Q. And, of course, if the wind is blowing from the east to the west you don't get any dust do you? A. Very little when it is from the east.

Q. You don't get any dust then? A. Yes, we do get some.

\* \* \* \* \*

(Tr. p. 182):

Q. In other words, 1944, 1945, 1946 and 1947, in some weeks they played as much as five nights a week, is that correct? A. That's right.

\* \* \* \* \*

(Tr. pp. 182-183):

Q. What time do you usually return home from work, on an average? A. That varies too. Twelve o'clock, one o'clock, two o'clock, three o'clock, sometimes six, seven, eight and nine, and some nights I don't get home at all.

Q. And sometimes you work several days in succession? A. Not several days, but I have two and three days.

\* \* \* \* \*

(Tr. p. 187):

Q. Mr. Green, how old are you, sir? A. I will be 65 in May.

Q. And you live at the corner of 33rd Street and Ednor Road? A. Yes, sir.



Q. Is there any street lamp right next to your house on Ednor Road? A. About 50 feet from the corner.

\* \* \* \* \*

(Tr. pp. 197-198):

### CROSS-EXAMINATION

By Mr. Cross:

Q. When you bought into this neighborhood, were you advised or did you get any information that led you to believe that the Stadium would be only used in a restrictive manner? A. Your Honor, when I was dickering on that house the man I bought it from, standing in the corner of the yard facing the building on an angle like this (indicating), I said, "How about this place over here?" I didn't call it Stadium. I said, "How about this place over here, how is that going to work out?"

(The Court) Meaning the Stadium.

A. (Continuing) I mean the Stadium. He said, "What do you mean?" I said, "Some years ago we had midget races in there, midget automobile races," I said, "That made a terrible noise they tell me; you think anything like that would ever come back?" He said, "No, that was throwed out and they can't lease or rent that Stadium for commercial purposes."

Q. Who was he, the real estate broker? A. He was.

\* \* \* \* \*

(Tr. p. 198):

### REDIRECT EXAMINATION

By Mr. Driver:

\* \* \* \* \*

(Tr. p. 199):

Q. Did you have any further information, Mr. Green, that the use and occupancy of the Baltimore Stadium by the Orioles was on a temporary basis?

\* \* \* \* \*

(Tr. p. 199):

A. That was my understanding. Sunday night I started out to investigate. I went to see—

\* \* \* \* \*

(Tr. p. 200):

(The Court) Gentlemen, is there any question that when the Orioles went in there they went in on a temporary basis?

(Mr. Biddison) None at all sir.

(The Court) That seems to be conceded right along.

\* \* \* \* \*

(Tr. p. 203):

Q. Were the lights on in the Stadium last night? A. That's what I was reading the paper by. The lights in the Stadium last night were not nearly as bright as they generally are when they are playing games there.

#### RECROSS-EXAMINATION

By Mr. Robert Bartlett:

Q. Let me ask you one question about that. Didn't you notice that every light that was capable of being put on in the Stadium was going full tilt last night?

\* \* \* \* \*

(Tr. pp. 204-205):

(The Witness) No. I have no way of knowing, but I do know when they are shining the brightest, and they were not the brightest last night.

(Mr. Harlan) And there were no leaves on the trees last night.

(The Witness) No. If there had been I could have still read the paper.

HERMAN C. CRUEGER,  
3609 Rexmere Road

DIRECT EXAMINATION

By Mr. Driver:

Q. Mr. Crueger, will you turn to the plat and show the Court where your home is? A. Approximately right here (indicating on map). To be exact, five doors east of 36th Street.

\* \* \* \* \*

(Tr. p. 205):

Q. Your house is colored on that plat in what color? A. In blue, I would say.

Q. When did you buy that house? A. In January, 1929.

\* \* \* \* \*

(Tr. pp. 205-216):

Q. How long have you lived in the immediate area of the Baltimore Stadium? A. Well, I have lived within a radius of a mile or mile and a half of the Baltimore Stadium for twenty-six years.

Q. And in blocks how far do you now live from the Baltimore Stadium? A. Not over a half block

Q. And you have lived there since 1929? A. Yes, sir.

Q. What is your business or occupation? A. I am general agent of the Norfolk and Western Railway, with offices in the O'Sullivan building.

Q. Mr. Crueger, I would like you to tell us of the physical appearance of the Baltimore Stadium prior to July, 1944, and the area immediately surrounding it? A. The Stadium for a number of years had sod on the east and west side, and shrubbery, also shrubbery and trees on the north side. In the spring of the year there were Japanese cherry trees, later named Oriental trees after the war. They were very pretty; very beautiful.

Q. What use was made, from your observation, of the Baltimore Stadium prior to July, 1944? A. Why, the principal use of it was for collegiate and high school football games, with a few civic enterprises in between.

Q. Was the use of the Stadium prior to July, 1944 frequent or infrequent? A. Infrequent.

Q. Can you tell the Court what existed within the Stadium itself in so far as the playing field was concerned, prior to July, 1944? A. When I first took any notice of the Stadium it was in its infancy. It appeared to me and to everyone I talked to that it had been built as a football gridiron. It had a cinder track around it, which has since been taken away. There was no evidence that a baseball diamond had ever been contemplated. In fact, the architectural structure of the Stadium did not permit, to my mind, the playing of baseball.

Q. Was there any baseball diamond laid out there immediately prior to the Orioles coming in? A. Never.

Q. To your knowledge, had there ever been any commercial enterprises in operation in the Baltimore Stadium prior to July, 1944? A. Whether they were commercial or not I don't know. There was a rodeo there which was very objectionable, and an attempt was made to have midget automobile races and our improvement association objected, and they were not finally held.

Q. Are you a member of one of the improvement associations? A. Ednor Garden Improvement Association.

Q. How long have you been a member of that? A. A number of years. I couldn't say exactly how long.

Q. In connection with your association meetings, did you ever have occasion to use the administration building of the Baltimore Stadium? A. Yes.

Q. What room would you use? A. When the Ednor Garden Improvement Association was first organized we held dances and card parties, and similar gatherings, in the large hall on the second floor, and it was used on many occasions. After the Orioles moved into the administration building, a sign was put on the door "Baltimore Baseball and Exhibition Club." I might not have the exact wording, but it was very evident that we were not wanted in that particular part of the building. We were then forced to hold our improvement association meetings in the locker room or the shower room on the ground floor, at the north end of the administration building.

Q. What about the access to that room? A. Well, there are toilets in there, there are lockers for clothes, there are shower baths. It certainly wasn't a very desirable place to meet.

Q. Mr. Crueger, I would like you to tell the Court in your own way, what, if anything, you have noticed with respect to the noise coming from the Stadium since the Orioles began its use and occupancy? A. When there are Sunday afternoon games the crowds commenced to arrive about noon time. All manner of conveyances, from trucks to jeeps, taxicabs and everything. Lots of times we have had trucks in front of our home. On one occasion as many as 23 people ate their lunch before going to the game. They had seats and benches in the truck. When they got through that meal they threw paper cups and partly eaten pies and sandwiches on the curbs, on the street, and on the lawn. They made so much noise that it was impossible for us to enjoy our noon time meal. I went out and spoke to them and was told to go to hell. So I called up the Police Department, rather, I went up to the corner first to look for a policeman, and the sum and substance of it, your Honor, I got nowhere. Those crowds start to arrive and there is a constant stream of people up Rexmere Road, which is a one-way street, from noon time up until one o'clock.

They have all manner of noise making devices with them, cow bells and klaxons, sirens, and whatnot. They don't use them on the street but wait until they get in the Stadium. About that time the loud speaker starts over there with music, phonograph records, dialogue. Half of the time at least the loud speaker isn't tuned in properly. Sometimes you can hear it very loud and at other times it fades out entirely; but it is sufficiently annoying that you can't sleep, you can't take a nap Sunday afternoon. You can't enjoy your home. You can't converse with people at times.

Q. Is the loud speaker loud enough for you to hear what is said over in your home? A. Absolutely. I know the line up by heart. I have heard that so many times, I can anticipate the name of each player before it is announced.

Q. How often does that occur, Mr. Crueger? I am referring to the noise and loud speaker, and so forth. A. The loud speaker is every night they play baseball.

Q. How often does this noise from the crowd occur? A. Every night they play baseball.

Q. In connection with the night games, what time does the public start coming? A. Twilight games start around 6 or 6:30, I don't know exactly. The crowds start arriving around five o'clock in the afternoon, about the time a man gets home from work; no place to park. At night, oftentimes, the alleyway is blocked so you can't get into the alley to get to your own garage. About supper time, and in the summer time, it is necessary in order to enjoy your dinner or supper to close the windows until the crowd gets settled in the Stadium and the meal is over.

Q. When are these night games over? A. I haven't checked it, Mr. Driver, but it is somewhere in the neighborhood of eleven o'clock.

Q. How long is it before the Stadium is quiet? A. Well, it depends on the crowd, on the size of the crowd. For instance, our street is so narrow, with everybody leaving at once, the street and sidewalks are both filled with a mass of people, and depending on the excitement produced by the game—rather, the dispersal of the crowd depends on that. They yell and ring cow bells and make a general disturbance after leaving the game.

Q. Have you observed any profanity used by these people? A. Many a time. In fact, our ancestry has been referred to by some of the people.

Q. Mr. Crueger, let me ask you about the dust. What have you observed about the dust in your property? A. Well, I have been a very careful observer of that feature of the nuisance around there and I have made it my business on many occasions to walk to the corner of 36th Street and Rexmere Road on nights that I knew the dust was very prevalent. I have seen clouds of dust that almost obscured the lights, the six lights on each side, depending on the direction of the wind. The dust is so bad in our home that I have taken my finger and raked piles of it up on my dining room table.

Q. Is that frequent or infrequent? A. That is whenever the weather is dry. Of course, when it rains there is mud there. The mud is dragged by the automobiles that, incidentally, don't go over the driveways but the curbs, at any place on 36th Street or Ellerslie Avenue to Ednor Road, and drags that mud down our street and the various streets of the neighborhood too.

Q. And when that mud dries out— A. We have the dust the next day or the following day.

Q. I would like you to tell the Court what you have observed about the toilet facilities at the Baltimore Stadium? A. Prior to a few years ago, the toilet facilities at the Baltimore Stadium consisted of the old old joke still of out-houses. I made almost a one man



campaign to have that condition corrected. Finally, a few years ago, I think, I am not sure, after the Orioles moved in, flush toilets were put in, which are totally inadequate to handle a crowd of any size.

Q. Why do you say that? A. Because there are odors from the toilets themselves and people using those toilet facilities, there just isn't room enough for all the crowd, particularly when the game is over.

Q. Have you observed people using the Stadium proper as a lavatory? A. I have, sir.

Q. On frequent or infrequent occasions? A. I would not say frequent, but I have observed it.

Q. Have you observed some of the crowds coming to these games using your property as a lavatory? A. I have, sir. The night of the so-called big crowd, two couples, two ladies and two gentlemen used the rear of my house for toilet facilities. It was necessary for me to go out and ask them why they did it. I did not get a very satisfactory answer and I had to take my garden hose and wash the results away.

Q. What, if anything, have you observed in the area of the Stadium with respect to rats, Mr. Crueger? A. We were troubled with rats—

(The Witness) They are all over the city, more so in our section. As you know, if you are familiar with the construction of the Stadium, there are wooden seats with dirt underneath. People get through eating hot dogs and they may throw part of it away or a sandwich of any sort. I have sat out on my small front lawn at night and watched rats go up our street in the direction of the Stadium, and I have assumed they were going over there to get food; plenty of them.

Q. Have you ever seen any around the Stadium proper? A. Yes, sir. I have seen them around the Stadium proper.

Q. Do you know whether the City of Baltimore has taken any official action in an effort to eradicate the rats in that area of Baltimore City? A. Yes, sir. There was a campaign some little time back, when they dumped some meal on my concrete apron for the rats to eat. It stayed there three or four days and the rats ignored it. They had better food elsewhere.

Q. What, if anything, have you observed with respect of rowdyism precipitated by the use of the Stadium? A. For the last three years there have been crowds of youths, colored and white, who naturally have been attracted to the Stadium and they evidently did not have the admission price, and they made every effort to do what is known as roll the fence. They operated in gangs of fifteen, eighteen or twenty. It got to be such a nuisance, I suppose, on the part of the management, Baseball Club, that police officers were assigned to control the rowdyism, so that motorcycle policemen were patrolling the outside, the northern part of the bowl. As the gang would go over the fence at one place, another gang was being chased by the policemen. Several nights in the neighborhood, with the motorcycles popping off and the kids yelling, well, everybody was aroused. The entire neighborhood, men, women and children. It was just like a riot. The youths were hiding in bushes on my lawn. They were up and down the street. It was like a game of robbers and cops in the movies.

\* \* \* \* \*

(Tr. p. 217):

Q. Did you have any understanding with respect to the use and occupancy of the Stadium by the Orioles? A. Well, I can't say, Mr. Driver, there was a definite understanding, but I lived at 822 East 35th Street for a couple of years prior to where I am living now, and that is only three doors from the Stadium, right across Ellerslie Avenue. Naturally I could observe the crowds that were passing to and from the Stadium, and as

they were not objectionable nineteen years ago, when I bought, I moved where I am now. Had I had the slightest idea that the Stadium would be converted from a football gridiron to a baseball park, I would never have bought my house.

\* \* \* \* \*

(Tr. pp. 218-219):

Q. I would like you to tell the Court in your own way what the difference is, if any, between the use and occupancy of the Stadium since July, 1944, as against the prior use and occupancy of it? A. Prior to the use of the Stadium in 1944, the events held there were infrequent. Notre Dame-Navy football games, and one time the Army-Navy game, various college football games, high school games; and occasionally—well, the Fourth of July celebration, Easter Sunrise service. A rodeo was there but never came back. An attempt was made to have the midget automobile races. I understand there was a symphony concert there at one time, but I don't have any recollection of that.

Q. What effect does the use and occupancy by the Orioles have on the use of your home, as compared with the frequent or infrequent use, prior use of the Stadium? A. The frequent use of the Stadium in the summer time causes us, on account of the noise, the dust and the glare from lights to keep our windows closed as much as possible. We don't have the reasonable use of our home. Another thing is prior to 1944, most of the events were held at a time of the year when windows were closed. It was not necessary to keep them open.

#### CROSS-EXAMINATION

By Mr. Biddison:

Q. Mr. Crueger, what is your age, sir? A. Fifty-seven.

Q. In addition to these other types of events that you have mentioned at the Stadium, did they or not, to your

knowledge, ever have prize fights in the Stadium? A. Yes, they did. They had a prize fight there. I overlooked that.

\* \* \* \* \*

(Tr. p. 220):

Q. How many nights were you disturbed, then, by the Stadium? A. Practically every night the Orioles played there.

Q. What time do you normally retire? A. Around ten or ten-thirty if I can go to sleep.

\* \* \* \* \*

(Tr. p. 220):

Q. How many nights was everybody aroused in your community by this hunt for these young rowdies? A. That took place a good many times during this past year. I would say a half dozen times, at least.

\* \* \* \* \*

(Tr. pp. 220-221):

Q. Now, with regard to these trucks in front of your home and people having lunch, how many times did that happen? A. Once.

What year was that? A. Year before last, 1946.

\* \* \* \* \*

(Tr. pp. 221-223):

Q. What did you pay for your home in 1929? A. \$9,850.

Q. Are you of the opinion that it has depreciated in value since 1929? A. That I could not answer, sir. If the Orioles stay there it will undoubtedly depreciate.

Q. Well, they have been there four years, haven't they? A. Yes, sir.

Q. Has your property depreciated in value during these past four years? A. That I couldn't tell you. I think it is because of the reported prices I have heard

of several years ago compared to those of the present day.

Q. What value do you place on your home now? A. I place no value on it. It is my home and I hope to live there undisturbed.

Q. Do you have any opinion as to whether or not it has depreciated in value, is worth less than your original purchase price? A. No, sir.

Q. You have no opinion? A. No, sir.

Q. Are there any signs regulating the parking in your immediate community, sir? A. Not on our street at all.

Q. Are there any in the alley? A. Yes. An orange disk about this big (indicating), saying "No parking", which is violated night after night.

Q. But there is a police sign which says, "No parking" in the alley in back of your home? A. But there is no attention paid to it, and they might as well not be there. And oftentimes kids break them up for amusement.

\* \* \* \* \*

(Tr. p. 223):

Q. How are you able, then, to tell the Court that architecturally the Stadium, in your opinion, is not designed for the playing of baseball? A. Because I have been to every football Stadium in the country, for instance, the one in Philadelphia, the municipal Stadium there, and this is just my own personal observation, that that Stadium as well as our own here, was not intended for baseball. If so, they would have been arranged differently. That is just a layman's point of view. The fact remains that this Stadium is going to be rebuilt to accommodate baseball shows in itself it was not originally intended for that purpose.

\* \* \* \* \*

(Tr. p. 225):

### CROSS-EXAMINATION

By Mr. Kemp Bartlett:

Q. Mr. Crueger, you have mentioned the noise and the dust and toilet facilities and rats, you said something about lights. Do the lights shine in your house?

\* \* \* \* \*

(Tr. p. 226):

A. Not directly; no, sir. I am north of the Stadium. The people on the east and west side of the Stadium get the most of the lights. However, the whole neighborhood being lit up at night isn't conducive to sleep. You have to pull your blinds down where I live.

Q. You get the noise where you live? A. Plenty of it.

Q. And you can hear the loud speakers? A. Yes, sir. I can hear fans in the ball park yell "Kill the Umpire."

\* \* \* \* \*

(Tr. pp. 235-236):

LEE STAPLES,  
920 East 36th Street

### DIRECT EXAMINATION

By Mr. Driver:

(Tr. pp. 236-241):

Q. Mr. Staples, you live on what would be the north-west corner of 36th Street and Elkader Road? A. North-west corner of 36th and Elkader Road.

Q. And you bought your property when, sir? A. August, 1941.

Q. And you live there with whom? A. My wife and four children.

Q. Were you familiar with the use which had been made of the Baltimore Stadium prior to the acquisition of your home? A. Yes. I have been around that neighborhood for a long number of years and when I bought my property I was apprised by the Maryland Title Guarantee Company as to the use of the Stadium and we discussed the prospective use. Mr. Herbert, of the Maryland Title Guarantee, and I were of the opinion—

Q. What use, Mr. Staples, from your own observation, had been made of the Stadium prior to July, 1944? A. Very infrequent day time use; rarely on Sundays; never anything except religious or civic events and college or school football games.

Q. What was the physical appearance of the Stadium and the grounds surrounding it prior to July of 1944? A. The grass plot and shrubbery on the west side of the Stadium was our front lawn. We had quite a nice location there, with a view from 36th Street almost to Gorsuch Avenue. That is Venable Park, I believe they call it south of 33rd Street. It is a very comfortable and cool location there in the summer time.

Q. You have told us there was shrubbery there. Was there grass on what are generally referred to as the parking lots? A. The west end, I would say, was practically all grass. The boys in the neighborhood played soft ball on that grass and they did not seem to wear it off. The football games in the fall when the grass was dormant, did not seem to disturb the grass any. As a matter of fact, I remember the City's power mowers came out there regularly to mow that grass. It was of considerable growth. They sent their gardeners out there to trim the shrubs. In spring we really had a beautiful sight on that corner.

Q. I direct your attention to the situation which has existed since the Orioles came to the Stadium in July of 1944, and ask you, first of all, the physical appearance of the Stadium and the area surrounding it now? A.

It is a rather unsightly mess now. They built those toilets outside and built those ticket booths outside. There are a lot of new lights outside for parking. I think they are new. The grass is all off. On our side the erosion has caused rather large ruts all over that area. When it rains the mud is carried into Ellerslie Avenue. As a matter of fact, it is my opinion that the parkers don't go on that lot when it rains because they don't want to get the mud all over the automobiles. But the ones that do go on the lot when it rains scatter that mud all over the neighborhood. Of course, that mud ultimately becomes dust.

Q. What, if anything, has happened to the shrubbery and trees? A. If pictures were taken of that shrubbery now a great deal of it would not show up at all. Other bushes which were five and six feet high are now, I would say, eighteen inches high. We have stood on our terrace and saw automobiles, people in automobiles break off the branches of the trees, run right over the shrubs, break them off, drag the bushes out into 36th Street by the axles of their cars. We had really no sight there at all in the spring any more, there is no grass, a very few bushes to bloom, and some of the trees have disappeared entirely. That is the way we see it today.

Q. Mr. Staples, I would like to ask you what, if anything, you have observed with respect to dust coming off these particular parking lots or anywhere else around the Stadium? A. From our location the wind would be in the summertime from the southwest and would carry that dust northeast. People up a block or two above me on 36th Street would get the worst of the dust. However, when automobiles spill over the curb at the end of a game, particularly now when there isn't any grass out there, we get a cloud of dust from those parkers leaving that area.

Q. How frequent is that? A. Every night and every Sunday afternoon that happens when there is an Oriole ball game.



Q. How does that effect you in the use and enjoyment of your home? A. We have to keep our windows closed.

Q. What time of the Year is that? A. In the summer time. That requires more house-keeping to be done. We have remarked sometimes that it isn't ordinary dust. It does not seem to be clay dust, it is getting now down to grit that flies over there and scratches the floors. That is something that before that grass wore off we never saw before.

Q. I would like you to tell us what you have observed with respect to the parking since July, 1944? A. Well, that parking, to my mind, I work a great deal at night—

Q. What is your work? A. I am a public accountant.

Q. And you have been for how long? A. About twenty-five years.

\* \* \* \* \*

(Tr. pp. 241-245):

Q. You were telling us about the parking. A. When those ball games start in the spring, and, of course, that is before my overtime season begins in the fall, on many occasions I can't even get my car in my garage. I have had the concessionaire of the Orioles—whether he is connected with them or not I don't know—up against my garage doors. That concessionaire the police got out of there only after threatening to pull that car off with chains. I have had cars illegally parked to block the access to my driveway. Once I could not get home, could not get within two blocks. I parked over on Kimble Road, I believe, and I got a ticket and there were no signs posted. I found out later, after I had run into a neighborhood fracas, and when I called Captain Kaste about this affair, he told me he was going to send a policeman around to pick up the ticket, which he did, and that day it was about midnight when I moved my car to my garage. Very frequently on the trips I have to make I am hedged in at the curb, I have an automobile in back

and another in front. I have called the Stadium, and the Stadium has refused to have that announced, to have those cars moved so I could get out. I have had that happen a half dozen times. I could not use my automobile unless those games were over. There are instances where you could grab a cruiser but it is pretty difficult out there to get a cruiser when the ball game is on. Where they are, I don't know.

Q. By cruiser you mean what? A. A police cruiser. I have had to wait on the use of my car until after the ball games were over. Those instances would be mostly on Sunday afternoon, when my car would normally be out on Elkader Road. Of course, Elkader Road recently, I believe, has been made an outlet street I think. I think 36th Street was repaved two summers ago and they cut an outlet in the curb opposite the intersection and I think they made Elkader Road an outlet north. It is a one-way street. However, parking is not banned. So we have a great deal of confusion when a single line of traffic is sent up that street plus the fact that all the other cars are trying to get away too.

Q. I want to ask you, Mr. Staples, what you have observed with respect to the noise from this increased parking and use of this area since 1944? A. From the parking, did you say?

Q. Yes, from the automobile traffic, rather. A. Well, that is pretty bad. When they are all going away from there they all blow their horns, they don't seem to wait for the policemen, they are all anxious to get home, and you have four or five hundred automobile horns going at the same time.

Q. How often does that occur? A. Every night or every Sunday when there is a ball game.

Q. How does that differ from the use of the Stadium when, say, there is a Navy-Notre Dame game there? A. Well, those crowds are larger and they are usually on

Saturday afternoon. They are in the fall of the year, usually in cold weather, when your houses are closed, and ordinarily the football games, I believe, are over at five or five-thirty and the noise and confusion, and whatnot, is all over by dinner time.

Q. I would like to ask whether you have personally observed any acts of vandalism with respect to your property? A. Yes. As the years have gone by, that is, 1944, 1945, 1946 and 1947, I make it a point now during the ball games to be on my front terrace when the ball game is over. We have on that corner this ornamental or cut stone wall. It is a very pretty stone wall. It seems to be a very favored target for whiskey bottles. At the foot of that wall, in front, we had a rose garden, but that rose garden, so far as I know, is just a cemetery of broken glass. I have filled I would say a 5/8 bushel basket with bottles or glass after ball games. We have picked up trash more than I could handle with metal containers.

Q. What kind of trash? A. Newspaper, programs, lunch boxes, soft drink bottles, hot dogs and so on. It is just thrown in there. The barberry hedge we had at that house, incidentally, when I bought it in 1941 was about roughly 100 or 120 feet, that was trampled down. If you took pictures there now the two large bushes at either end of the terrace, they call it between the sidewalk and the curb, those were the type of barberry, which were about four or five feet in diameter. Those bushes, the one in the back is about a foot high now, and the one in front isn't there at all, and there is a new bush I put there two years ago that is having quite a struggle. The other bushes that were there, two, four, six, eight—about eight bushes consisting of mostly barberry, which have been broken off by automobile tires or by the foot traffic or by automobilists getting out of their cars and playing on it. I had one fine gentleman, incidentally, come to my house several years ago and

complain to me about plaining barberry on my side. He said he thought we should have bushes out there—

\* \* \* \* \*

(Tr. pp. 248-252):

Q. You have told us about debris and trash, and so forth, what about the paper and trash and so forth, on property other than your property, Mr. Staples? A. It is thrown all around the street. One Sunday afternoon someone came out of the ball game and threw, I would judge, two or three hundred programs in 36th Street. There was a police officer right alongside of him, and in that case I asked the officer to do something about it because our corner, I think has been referred to as a whirlpool corner, that is, there are two currents of air and ultimately we seem to get the trash that is thrown into the streets. The man on the other corner, he gets a little bit but the volume comes on my property. That officer said he was off duty and stepped on a bus and went home. I called Captain Koch of the Northeastern about that affair and the desk-sergeant called me back several days later and said that particular policeman had been suspended for three days for not doing something about that trash that was thrown into the street. I am not certain about the person who threw those programs in 1936 because there are a lot of people over in that Stadium when a game is on, and while I think I have pretty good memory, there is an awful lot of faces to remember, but I think the person that threw those programs in 36th Street was the person who sells them at the gate or entrance which is opposite 36th Street and Rexmere.

Q. Mr. Staples, assuming all of this trash and debris is thrown around, how long does it stay in the neighborhood around the Stadium property before it is cleaned up? A. It usually stays there until street cleaners come to pick it up. I have noticed lately that somebody goes over the Stadium property and picks up some paper, but they don't get it all and they don't go out in the

street to pick up what is thrown around the neighborhood.

Q. How often does that situation with respect to debris outside of your property occur? A. Well, we see that at every ball game, at every Oriole game. You don't see football fans—I have not seen them around my neighborhood—litter the streets with newspapers and programs, and empty bottles. They seem to carry them home. But the baseball crowd, there must be more baseball crowds on foot, not in cars, and they just let it go around our property.

Q. What have you observed with respect to the loud speaker and how does it affect you, if at all, in the use of your home? A. That speaker is supposed to be toned down, but we are rather close to it and we can't play our radio, for instance, unless we turn our radio up full blast, which of course would make a nuisance for someone else. We cannot sleep in our house until that loud speaker is turned off. We cannot carry on a conversation out front on that terrace while that loud speaker is on.

Q. How frequently does that situation exist? A. We have that every summer time in the evening when the Orioles are there, and every Sunday afternoon double header.

Q. Mr. Staples, what have you observed with respect to rats being around the Stadium area? A. We knew that there were rats in that area. I know that there are rats anywhere where there is a stone wall particularly. All of those walls there have drains in them and I knew that rats were in that neighborhood, a few. But I think that our rat situation has become worse, with all of those foodstuffs and whatnot thrown around the street. I have talked to neighbors about that and that situation because oftentimes a rat, as I found out, might live on your property or someone else's property, to get his food elsewhere. That seems to be the way they

function at least. We have more rat holes. We have a flower bed in the back of the house that has been a favorite spot for the rats. The new opening, there are as many new ones as old ones that we have closed up. I have put out poison frequently and we have caught a few. I believe that there was some rat control work in our neighborhood two or three years ago, and I am also told that when that rat control work is done that merely drives the rats somewhere else. My opinion is, or my impression is that there are more rats in that neighborhood when these games are on in the summer time. At this moment, according to my theory, there aren't any rats in the neighborhood, they are all over in the Stadium, living over there until the Orioles or whatever it is comes back.

Q. Have you made any recent complaint to the City of Baltimore and the man who is in charge of the rat control? A. Yes, I asked the man who is in charge of the rat control to make a survey, which he apparently has done.

\* \* \* \* \*

(Tr. pp. 253-254):

Q. Mr. Staples, these various factors you complain of, did those factors exist prior to July, 1944, that is to say, the dust, light, noise, rats, etc.? A. No. We had an occasional football game there, as I said, on Saturday afternoon. It was all over by dinner-time. We have had the Drum and Bugle Corps competition, Fourth of July celebration in the evening, and we have had Easter Sunrise Service in the morning. Those conditions did not bother us at all. A large football crowd, forty, fifty, sixty thousand, they come to the Stadium in the afternoon and have gotten out of the neighborhood by half past five or six o'clock. We have not been bothered by those conditions.

## CROSS-EXAMINATION

By Mr. Harlan:

Q. Mr. Staples, what did you pay for your property in 1941, when you moved in? A. I bought my house at a depression price of \$6,675 in fee.

(Tr. pp. 254-255):

Q. I understand you have spent \$2,000 on it? A. Yes, sir.

Q. What is the value of your property today? A. Well, I think the inflated value of my property is, I would say, somewhere around \$17,500 or \$20,000.

Q. So that including the improvements it is worth about \$12,000 more than when you bought it? A. On an inflated basis; yes, sir.

Q. By inflated basis, you mean on today's market, do you not? A. I have observed that properties are now selling for two or three times their cost. This property, incidentally, would not sell for two or three times its cost because its cost originally \$12,000. It had a gas furnace put in that cost \$900, and it had a new slate roof on the top. The man that lived there told me the roof cost about \$1600. So that house stood him, he said, somewhere in the neighborhood of \$14,000 or \$15,000. On this market that house should bring \$30,000 to \$35,000.

Q. Do you think it would? A. No, unless for one reason which might happen. I think somebody has tried out on my corner for a tavern in the event the Stadium and the surrounding area is zoned commercial.

\* \* \* \* \*

(Tr. pp. 260-262):

Q. Isn't it true that after the game starts they just announce the names of the players for the first three innings, then only on substitution or in case of an emergency such as an illegally parked car or calling a doctor,



or something like that? A. I believe that is right as far as baseball is concerned, but it is more continuous than that.

Q. What else do they announce? Do they announce play by play or commercials? A. No, I mentioned they don't announce play by plays, I don't think, but they do announce scores. They are continually announcing automobiles which have left their engines running.

Q. You have heard when the Colts were there the loud speaker system? A. Yes.

Q. Or when Navy was there or high school football games? A. Yes.

Q. It isn't as continuous as that, is it? A. Well, that is a broadcast of football games. No, it is not as loud as that—

Q. Or as continuous, is it? A. I would say not, except, again, when a college or school game is there, you have two or three hours and it is all over, and you don't have an occurrence again for maybe a week or two or three weeks.

Q. You only have two or three hours at the most except on a double header, on one night; isn't that correct? A. Oh, they have had double headers on week day nights.

Q. Well, they start at twilight, don't they? A. I believe so.

Q. You don't mean to tell the Court you could not carry on any conversation at all during the time the Orioles were playing there due to the loud speaker? A. We cannot carry on other than a disturbed conversation during baseball games. As a matter of fact, the lights have destroyed the privacy. We used to spend a lot of time in the summer on our terrace. We had a lot of privacy there. But the glare of the lights lights the place up and the noise of the loud speaker interferes



with conversation. It isn't very pleasant circumstances under which to converse.

Q. As to the lights, Mr. Staples, you moved in after the lights were installed, did you not? A. Yes, sir.

Q. And you knew there were lights there, didn't you?  
A. I did.

\* \* \* \* \*

(Tr. p. 263):

### CROSS-EXAMINATION

By Mr. Robert Bartlett:

Q. Mr. Staples, your home located there on the corner is on a high terrace, is it not? A. That's correct.

\* \* \* \* \*

(Tr. pp. 266-267):

Q. One of your complaints, in answer to Mr. Driver's question, was that the loud speaker made so much noise that you couldn't sleep until it was turned off. Well, it is always turned off before eleven at night, it is not?  
A. I wouldn't say always. What disturbs me is on Sunday afternoon, when I like to take a nap, to catch up on my sleep for the week.

Q. Mr. Staples, you live at 920 and is 918 E. 36th Street the house that is next door to you? A. He is my neighbor.

Q. And he bought his house on November 7th, 1946.  
A. About that time.

Q. Do you know what he paid for that house?

\* \* \* \* \*

(Tr. pp. 267-268):

(The Witness) Might be \$15,000 and might be \$16,000.

## REDIRECT EXAMINATION

By Mr. Driver:

\* \* \* \* \*

(Tr. pp. 268-269):

Q. What effect, if any, has the Oriole use and occupancy of the Baltimore Stadium had on the disposal or disposition or sale of property in that neighborhood?

(Question objected to.)

(The Court) Of his property.

(Mr. Driver) In Dollars?

(The Court) Any way. He isn't a real estate broker, he isn't qualified. I won't let him go all over the neighborhood. If you want to ask him anything about his property, I will let you ask it.

(Mr. Robert Bartlett) He has answered and said around \$35,000.

(The Court) I think he has, but if he wants to re-examine him on it, I will permit it.

A. I think I qualified that for my house, that my house would not bring that much money unless that area was zoned commercial and the corner was desired for a tavern. Unless that happened, my opinion as to my own property is that while I might sell it at an inflated price or more than I paid for it because I bought it at a depression price, I would say that my property is going to be increasingly difficult to dispose of if ball games continue in the Stadium.

INSPECTOR JOSEPH A. ITZEL,  
764 East 36th Street

DIRECT EXAMINATION

By Mr. Driver:

(Tr. pp. 270-276):

Q. When did you buy your house? A. In June, 1927.

Q. And you live there with whom? A. Wife, daughter and son-in-law.

Q. Were you familiar with the physical appearance of the Baltimore Stadium in the immediate area surrounding it prior to July, 1944? A. Yes, sir.

Q. Will you describe it, please, sir? A. The lawn on the outside of the Stadium, the west side and north side and the east side, were well planted with grass sod and shrubbery, and made a beautiful appearance. Trees. The structure of the Stadium proper, that is, the wooden structure, was hidden with extremely tall trees. I don't know what they called the trees, but in the last seven or eight years they have died away. Some are gone completely and practically the entire structure is in full view which was hidden before by these tall trees.

Q. What is the present situation with respect to the grass on the lots surrounding the Stadium? A. There is no more grass there. A lot of shrubbery is gone, and I say again those tall trees I spoke of are mostly all gone, which hid the wooden structure.

Q. Are you familiar with the use that was made of the Baltimore Stadium prior to July, 1944? A. Somewhat, yes, sir.

Q. Will you tell us what it was used for, from your observation? A. Football games, civic affairs, school games. At one time they had the Baltimore Symphony orchestra playing music there. They have the Easter Sunrise Service there.

Q. Was the use frequent or infrequent? A. Quite infrequent.

Q. Now, I direct your attention to July, 1944, and the years subsequent to that time since the Orioles have been using the Stadium, and ask you what you have observed, first, with respect to the question of noise? A. The noise from the loud speaker makes it most uncomfortable in a home. You can't have a conversation unless you speak extraordinarily loud in your own home, and you can't turn on the radio unless you turn it on extremely loud.

Q. What, if any, effect does it have on your ability to go to sleep? A. You can't sleep while it is turned on.

Q. And how late is it turned on? A. When a baseball game is going on, at least eleven o'clock at night.

Q. What about Sunday afternoon? A. The same way.

Q. What have you observed, Inspector, with respect to the crowds leaving the Stadium after these night games are over? Do they leave the neighborhood immediately? A. I have noticed on a number of occasions cars parked in front of my own home which would stay there until twelve, one and up until two o'clock, before they left. It is only an assumption, but I suppose they went up to Greenmount Avenue to get something to drink, then they come back and loud and unseemly noises are made, and frequently I have found whiskey bottles on my lawn.

Q. What can you tell us about the use of the lights in the Stadium since July of 1944? A. The lights don't glare directly into my home but the neighborhood is so bright you can see the light in the house. I mean you have to close the shutters or draw the shades in order to go to sleep in the front room.

Q. What have you to say about the dust, Inspector? A. Since 1944 the lawn has been ground up so I don't know what can be used to avoid the dust.

Q. How does it affect you in your home? A. It is very noticeable, the dust on the furniture.

Q. What, if any, debris have you noticed strewn around the neighborhood and around the bushes in and around the area after these Oriole games? A. Newspapers and programs. I have noticed on a number of occasions ice cream cartons or cones strewn around the place; quite a lot.

Q. Is that frequent or infrequent.? A. Frequently.

Q. How often does this dust bother you in the use and enjoyment of your home? A. Whenever there is an affair at the Stadium, whenever they find it necessary to park on the Stadium lot. That is, since 1944, because it has been ground up more. All the grass is gone completely, and that makes more dirt.

Q. What have you observed about people who attend these games using your or your neighbor's property as lavatories? A. That happens in my back alley, not in the front.

Q. Frequently or not? A. I would say infrequently.

Q. Is there any difference between the use and occupancy of the Stadium by the Orioles as against the way it was used before that time and if so, what are the differences? A. There is quite a difference. The noises around the neighborhood. A number of boys who anticipate favoring some in taking care of a car for parking are yelling constantly before the game, and to make anywhere from a dime up, I suppose they will park them anywhere, put them in the back alley up against the garage or anywhere else. That is quite frequent.

Q. What about the time of the year, what effect, if any, does that have on you? A. Well, in the summer time, the noise, and at night time when the lights are lit, you have to close the shutters or draw the shades,

which, of course, keeps out the air and necessitates turning on a fan to get some air into the house; closing the windows for dust.

Q. Is there any difference in the frequency of events since 1944 as against the year prior to that time? A. Every Sunday, almost every Sunday afternoon and every night when they have baseball.

Q. Did you have that situation before 1944? A. No, sir; quite infrequently.

Q. The difficulties, that you complain of, Inspector Itzel, did any of them exist prior to 1944? A. In a big crowd like Army-Navy football game, that was over early. About six o'clock the entire crowd would be gone and it was less annoyance.

Q. You are saying whatever difficulties you had in the past were of short duration; is that correct? A. Exactly, sir.

#### CROSS-EXAMINATION

By Mr. Biddison:

\* \* \* \* \*

(Tr. pp. 277-278):

Q. In your work in the Police Department, Inspector, what police districts of the City are under your supervision and control? A. Eastern, Northeastern and Northern.

Q. The Stadium is located in the Northeastern police district? A. Yes, sir.

Q. Was that district under your control last year? A. Yes, sir.

Q. What steps did the Police Department take under your direction to control or to preserve the public peace outside of the Stadium, to prevent crime and arrest offenders outside of the Stadium, and to prevent and

remove nuisances from all streets and highways surrounding the Stadium? A. We have taken all necessary steps to do that very thing.

Q. Then, if you have taken those necessary steps you have succeeded in creating a situation where none of those nuisances exist, haven't you? A. They do exist. They have continued to exist. We have anywhere from eight men on a small affair, which would mean one man from each district detailed to the Stadium, up to eighty men, ten from each District, and with eighty men or a hundred men you can't control all of those situations.

\* \* \* \* \*

(Tr. pp. 279-280):

Q. These loud and unseemingly noises you claim are created by these people outside of your house, have you arrested any of those people? A. No, sir, I have not.

Q. You are privileged under the law, and obliged under the law, are you not, to arrest persons disturbing the public peace in your neighborhood? A. If we made arrest in all cases, I will call them misdemeanors, around the Stadium, we wouldn't have a place big enough to put the people in.

Q. Your idea in forcing the law is that you are not going to enforce it around the Stadium? A. We do enforce it around the Stadium.

Q. Why didn't you arrest these people who were creating a misdemeanor in your presence? A. When I am home at night in my pajamas, up in the bedroom, I can't go downstairs as often as that happens to make an arrest. I would have to stay awake fully clothed until one or two o'clock in the morning.

\* \* \* \* \*

(Tr. p. 280):

Q. Were you ever fully dressed and able to make arrests in any of these disturbances and failed and

neglected to make them? A. I don't neglect them, but probably I was fully dressed on some occasions.

\* \* \* \* \*

(Tr. p. 281):

Q. Your explanation is as full as you care to make it, is it as to why you have not made arrests for misdemeanors committed in your presence. A. Here is one example. There are three or four men getting into a car and they used profanity. I cannot be in a position to testify who is using that profanity. By the time I get out there, they would either be gone or I could not make an arrest for it.

Q. With regard to the noise at the Stadium, with these prep school games on Friday night, do they make as much noise as baseball games?

\* \* \* \* \*

(Tr. pp. 281-282):

A. Probably they do but they are not as frequent.

Q. They are every Friday night during the fall, aren't they? A. I couldn't answer that. Probably they are.

Q. And there are double headers, too, aren't there? A. Yes.

Q. And they extend over some few hours too, don't they? A. That's right.

\* \* \* \* \*

(Tr. pp. 282-284):

Q. How many people were assigned last summer outside of the Stadium area to preserve the public peace and to prevent the commission of nuisances in that neighborhood? A. There is a traffic man on each corner, on practically all corners. I would say about four on Ellerslie Avenue from 36th Street to Gorsuch Avenue, probably five.



Q. Five on 36th Street. How about any other Street, any other officers assigned there outside of the Stadium to prevent nuisances and to preserve the public peace?

A. 36th Street from Ellerslie Avenue to the east end of the Stadium, it might be three there, probably three.

Q. What is the total of men, other than traffic assigned there to prevent nuisances and to preserve the public peace? A. There may be eighty men detailed there and no specific place to place any one man. Some are inside and some on the outside.

Q. Were eighty men detailed outside of the Stadium last summer for that purpose during the baseball season, at one time? A. Sometimes, yes, sir.

Q. How many times, Inspector? A. Quite often.

\* \* \* \* \*

(Tr. pp. 284-285):

Q. Inspector Itzel, what did you pay for your home? A. \$5,000.

Q. Has its present value depreciated below that, in your judgement, below the original \$5,000 purchase price? A. I couldn't answer that, Mr. Biddison, because I have never contemplated selling it and never went into it.

Q. Is that \$5,000 subject to ground rent or in fee simple?

\* \* \* \* \*

A. Oh, no, no. I am confused. That is subject to the ground rent. I own the ground but I paid \$5,000 for the house. The ground is worth \$1,300.

\* \* \* \* \*

(Tr. pp. 285-286):

Q. What is your customary bedtime, Inspector, when do you customarily go to bed? A. Usually around ten o'clock.

\* \* \* \* \*

(Tr. pp. 311-316):

MRS. WILLIAM P. HERON,  
3620 Kimble Road

DIRECT EXAMINATION

By Mr. Driver:

Q. Mrs. Heron, when did you and your husband buy your home? A. We bought it in October, 1936.

Q. Were you familiar with the use and appearance of the Baltimore Stadium at or about the time you bought your home? A. Yes. We lived on Elkader Road, we rented there for seven months before we bought our home on Kimble Road and we were familiar with the neighborhood.

Q. Will you tell the Court what use you have observed was made of the Baltimore Stadium prior to July, 1944?

A. There were a few civic events, patriotic events. There have been Sunday evening exercises of the symphony. I think the Shriners had a meeting there one time. Then there were the football collegiate games, high schools, scholastic games; fourth of July celebration.

Q. Were those uses frequent or infrequent prior to July of 1944? A. They were infrequent.

Q. Were they in the day time or night time for the most part? A. For the most part they were in the day time.

Q. Were you familiar with the physical appearance of The Baltimore Stadium prior to July, 1944? A. I was.

Q. Will you describe it, please? A. It was quite attractive. It was really something of an asset to the community. It was something in which the residents of that section took a certain amount of pride. It was well kept. It had grass which could be cut, it had lovely flowering shrubs, which in the spring presented a most lovely appearance. Something that people from any part of the city rode over to see and commented on.

Q. Subsequent to July, 1944, I would like you to describe what, if any, observations you have made with respect to noises as coming from the Stadium during the games of the Baltimore Orioles? A. Well, the noise has been such that it is impossible to try to go to sleep before the games are over and the crowds have gotten away. The street on which I live is a one-way street, parking allowed on both sides. The games are over perhaps eleven, sometimes it is a little after eleven when they are over. Then by the time they get out and get their cars, start the motors, they yell and holler and whoop and root sometimes. If they have lost there is a good deal of profanity that can be heard. Sunday afternoons, a quite peaceful Sunday afternoon is a thing of the past. There is no such thing as a Sunday afternoon enjoyed in the home. My husband and I come from church on Sunday, get our dinner as quickly as possible when there is going to be a game in the Stadium, and we get in the car and go out. If we don't want to ride the whole afternoon we go somewhere where it is quiet and take a nap in the car or take something to read and stay away until we think the game is over, which is about six or six-thirty in the afternoon.

Q. How frequently does that situation exist? A. It is whenever the Baltimore Orioles are in town and have a Sunday game, which is quite frequent in summer.

Q. What about the use of the Stadium at night by the Orioles and the noise coming from it? A. The noise is such that we can't read with any degree of knowing what we are reading. We can have snatches of conversation but the loud speaker is going almost continually. We can hear even in our home, which is ten houses from the corner of 36th Street, we can hear them calling each player, the number of the player, each substitution, any announcements of cars that are illegally parked, any calls, emergency calls for anyone, everything that is going on. Then in the intermission when there is

double header, there is that awful—I won't say awful, but what some people might call music playing.

Q. Is this so-called music played over the loud speaker? A. Yes, it is played over the loud speaker.

Q. And how often is this so-called music played over the loud speaker? A. Between the games, before the games.

Q. Is that frequent or infrequent? A. Every time there are games at the Stadium.

Q. What have you observed, Mrs. Heron, with respect to debris and such being scattered about your property and the property of your neighbors? A. The streets are full of papers. Would that include telling about the dust? Dust, I have seen any number of empty—well, liquor bottles, I guess whiskey or other liquors. I have seen those thrown around on the ground and bushes.

Q. Does that situation occur frequently or infrequently? A. It occurs continually when the teams are in town.

Q. And by the teams you mean what? A. I mean the Baltimore Orioles, when they are in town it occurs continually.

Q. Is that observation about debris limited to your property or does it include that of your neighbors? A. I have seen it very much down on 36th Street. The street is just full of debris; empty bottles, trash, papers, after the games.

Q. I would like you to tell the Court what you have observed with respect to some of the people who attend these games. A. Do you mean from my home or from the ball park?

Q. Anywhere? A. Well, I go to the ball games, some of them. I like baseball. I go up there and if I and my husband get somewhere where there is a lot of pro-

fanity, we move our seats. Unfortunately, we can't move our home.

\* \* \* \* \*

(Tr. pp. 317-318):

Q. Mrs. Heron, what is the difference between the use which you observed prior to 1944 and the use which has occurred subsequent to 1944, after the Orioles came in?

A. The use prior to 1944, it was used mostly in the day time. It was used for patriotic and civic events. It was used very infrequently and at a time of the year when we would normally have our windows closed and noise would not be so noticeable or objectionable. Subsequent to the Orioles coming there, it is used, as you can see from the schedules, whenever the Oriole team is in town, it is used Sunday afternoons, nights, sometimes several nights in succession and it is at a time of the year when certainly people want to get what little air there is stirring and you have your windows up. It would be almost unbearable to have to close up the house tight in the summer time and, of course, all of the noise and all of the disturbance we get the full benefit of. Does that answer your question?

Q. I think so. Now did any of these complaints that you have now exist prior to 1944? A. No.

### CROSS-EXAMINATION

By Mr. Harlan:

Q. Mrs. Heron, what did you pay for your house?

A. We bought our house during the depression in 1936, or when things were quite low, and it was in very bad need of repair, and we paid around—well, let's see; just less than \$6,000.

\* \* \* \* \*

(Tr. p. 319):

(The Court) What was the ground rent on it when you bought it?

(The Witness) \$96. We have subsequently bought the ground.

\* \* \* \* \*

(Tr. pp. 324-326):

WALTER R. BURRISS,  
3614 Kimble Road

DIRECT EXAMINATION

By Mr. Driver:

Q. What is your business or occupation? A. Manufacturer's representative of an electrical firm in St. Louis, Missouri.

Q. When did you buy your home? A. We purchased our home at 3614 Kimble Road in August, 1928.

Q. From whom did you buy it? A. From the E. J. Gallagher Realty Company.

Q. Were you familiar with the use and occupancy of the Stadium at the time you purchased your home? A. In purchasing our home we made particular inquiry as to the use and application of the Stadium from Mr. Gallagher and Mr. Mellon, the agent for the firm. They assured us that the Stadium was used for civic affairs, or scholastic and collegiate football, and that in no sense could we feel that the infrequent use would be disagreeable to a person living in that particular neighborhood.

Q. Did you observe the use of the Stadium in 1928, when you purchased your home down to 1944? A. I did.

Q. What was that use? A. The use was for civic events, for scholastic football games, and collegiate football games in the fall; Fourth of July celebration occurred there, Easter Sunrise Services.

Q. Was the use frequent or infrequent? A. It was quite infrequent.

Q. Subsequent to July, 1944, I would like to ask you what use has been made of the Stadium, whether it was a frequent or infrequent use? A. I would say the use of the Stadium since that time has been frequent.

\* \* \* \* \*

(Tr. pp. 326-328):

Q. I say prior to 1944, with respect to the time of the day or the time of the year, what use had been made of the Stadium? A. The use for the most part was in the late fall or winter months when football was played, and for the most part especially the large games that were attracted by Navy and their opponents say late in the fall of the year.

Q. How about the night time use? A. Prior to the installation of the flood lights in 1939, the use was entirely in the day time.

Q. And between 1939 and 1944 was the use for any sports or night events frequent or infrequent? A. It was very infrequent, only used for scholastic games, which attracted a comparatively small crowd.

Q. Mr. Burris, I would like to ask you what, if any, observation you have made concerning the noise coming from the Stadium during the playing of these Orioles baseball games? A. The noise can be heard from the loud speaker or public address system so that in the summer time, when we attempt to enjoy ourselves on our back porch in a cool breeze, if such would be blowing, it is difficult to carry on an intelligent conversation due to frequent interruptions coming from the public address system as to the Oriole games.

Q. Is that in the day time or night time? A. It would be principally at night.

Q. And if in the day time, on what day of the week? A. It will be Sunday afternoons.

Q. With whom do you live at that address? A. My wife, my son and my mother-in-law.

\* \* \* \* \*

(Tr. pp. 328-330):

Q. What, if any, observation have you made concerning the use of your property as a lavatory? A. I have observed the use of the alleyways back of my home being used as a lavatory.

Q. And on what occasions would that occur? A. After the dispersal of the crowd from an Oriole game.

Q. Have you ever observed it on any other occasion of events at the Stadium? A. I have not.

Q. What observation have you made with respect to the dust coming from the parking lot in the area surrounding the Stadium when the Orioles were playing games there? A. I believe the prevailing winds in the summer or early fall are from the south southeast, and naturally our home situated on the north of the Stadium, the dust that would be developed from the cars pulling in or leaving the Stadium grounds would blow in a northerly direction, so that it was necessary to either close your home to keep out the dust or submit to frequent cleansing of the house to eliminate the dust that settled throughout the premises.

Q. Is that occurrence frequent or infrequent? A. Frequent during the baseball season.

Q. What, if any, effect did these complaints you have listed have on the use or enjoyment of your home? A. The large crowds that were attracted to the Stadium necessarily made the necessity of rerouting or closing one way streets incorporated in that particular community. In my particular street, Kimble Road traffic moves north. On the streets adjacent to it the traffic moves south. Prior to the one way street traffic, in approaching my home from Greenmount and 33rd, they come up 36th Street and go down Rexmere Road in the alley that parallels 36th Street down to my garage. Now it is necessary to go up to Kimble Road or go a block farther to gain access to my home. Likewise in coming



in to the City I must go up Greystone Road, which has one way use, and go in the alley from that direction. I have found it difficult in reaching my home at times when a large crowd was at the Stadium, then it was necessary to pull in towards the alleyways leading off toward Kimble Road, back out and make a second pull in, in order to get in the alleyway, due to cars that are parked into the alleyway extension.

Q. What effect, if any, does this noise you speak about have on the use and occupancy of your home? A. It certainly could be considered undersirable.

Q. What, if any, effect does it have in your ability to go to sleep in the evening or to entertain your guests, or whatever else you might do? A. If we would invite company during the nights of baseball it would be difficult, if there be several couples come to the home to find parking space because the street carries double parking in front of the house and if a large crowd is at the Stadium, frequently many of the drives in the rear of the homes are occupied with cars.

### CROSS-EXAMINATION

By Mr. Biddison:

\* \* \* \* \*

(Tr. p. 331):

Q. What was your purchase price for that home brand new? A. The purchase price in fee was \$9,100.

Q. With regards to the use of your alleyway as a lavatory, can you break it down into months in which you saw it so used? Did you see it used in that manner in April of 1947? A. I can't state any days. All I can say is that I have witnessed it being used as a lavatory

Q. Can you say on how many separate occasions? A. Well, I would say on several occasions.

(Mr. Robert Bartlett) Is that over a period of four years?

(The Witness) Yes.

\* \* \* \* \*

(Tr. p. 331):

Q. As a manufacturer's representative of an electrical firm, do you travel and use Baltimore as headquarters?

\* \* \* \* \*

(Tr. p. 332):

A. I am usually out of the City Tuesday, Wednesday and Thursday, That would be Tuesday and Wednesday night.

\* \* \* \* \*

Q. What is your normal bedtime? A. 11 p.m.

(Tr. pp. 332-338):

DOCTOR J. W. GUYTON,  
1207 East 26th Street

# DIRECT EXAMINATION

By Mr. Driver:

Q. Doctor Guyton, you are a medical doctor? A. Yes, sir, for 27 years.

Q. And you bought your home at 1207 East 36th Street when? A. October 1939.

Q. And in blocks how far is that from the Stadium? A. I am approximately about one city block from the eastern rim of the Stadium.

Q. I would like to ask you how long have you been familiar with the Baltimore Stadium? A. I have been familiar with the Baltimore Stadium ever since it has been built.

Q. Will you state in your own way what use was made of the Baltimore Stadium, from your observation, prior

to July, 1944? A. Well, the Stadium was used infrequently for civic, patriotic affairs, Easter Sunrise Service. The Shrine had an affair there in June, 1939. High school and collegiate football games. Those games were held at infrequent times and most of them held in the day time.

Q. What was the physical appearance of the exterior of the Stadium grounds prior to 1944? A. The exterior of the Stadium grounds presented I would say a beautiful park like appearance. There was shrubbery on either side of the entrance, there was a grass plot on the east side, grass plot on the west side, and beautiful cherry trees on the north side.

Q. What is the situation today since 1944, with respect to the grass shrubbery and trees? A. Well, the grass plot has disappeared completely. There are many, many ruts and gulleys. The shrubbery has been completely destroyed. The beautiful cherry blossoms have been stripped.

Q. I would like to ask you, doctor, since the Oriole use and occupancy in the Stadium in July, 1944, what have you observed with respect first to noise? A. The noise of the address system is unbearable. It usually starts about an hour before the evening game. During about a half hour of three quarters of an hour is spent playing this cheap canned music, with sort of a grinding noise. Following that is announcements and schedules of future games, results of other baseball games, more music and dialogues between the games. The noise is such that rest is really impossible until the game is over and all the traffic has moved out of the neighborhood.

Q. How about lights at a night game? A. The entire back or southern side of our home is flooded with lights. You can read a newspaper in the bedroom window. The west side is flooded. We have no light shining in the northern side of the house other than lights reflected from the windows and the white paint of houses on the north side of the street.

Q. What about the noise, if any, from the traffic before and after the game? A. It is impossible to attempt to go to bed until a half hour after the same is over on account of the screeching of brakes, the blowing of horns, the blowing of the policemen's whistle, the numerous cow bells and horns.

Q. How frequent is that, doctor? A. That is any night on which a game is played.

Q. Games played by whom? A. By the Orioles in the Stadium.

Q. And is that frequent or not? A. It is frequent. In fact, so frequent last August, I have observed six night games in a row, then Sunday afternoon a double header.

Q. What, if any, observations have you made concerning—I believe you mentioned the lights—concerning the parking? A. Well, usually parking is prohibited on 36th Street. I have seen the alley in the rear of our home so packed with automobiles that you could not get a bicycle up there. I am a physician subject to call any hour day or night, and I have been compelled on many occasions in the last four years to seek a parking place on the Alameda which is two long blocks away. I could not retrieve my car until all traffic had subsided after the game. That has happened I would say on at least ten occasions in the last four years.

Q. What observations have you made about the ability to gain access, egress or ingress, to your garage? A. I have had cars park within six inches of my garage. I cannot control the mob. I have notified the Northeastern, the wife has called the Northeastern. I even made a personal visit to Chief Inspector Wallace. Sergeant Collins, by the way, was present at the time.

Q. Complaining about the situation? A. Yes, sir.

Q. Did it get any better? A. No, sir. It gets worse,

Q. What can you tell us with respect to debris, trash and so forth, being scattered around? A. After every game you can always expect a large amount of paper, debris, whiskey bottles, not so much on the back lawn but on my front lawn. It is nothing unusual on a dark night to see people stop and use my front lawn as a lavatory.

Q. Does that happen frequently or infrequently? A. I would say it happens on an average of three and four times a summer. It is rather embarrassing, if you are attempting to talk to company on the porch.

Q. Did you have one particular occasion to complain to the Police Department with respect to the alleyway in the rear of your property being blocked? A. Yes, sir.

Q. Will you tell us about that? A. Several years ago the wife called me at the office and said it was impossible for me to get home, there was no parking allowed on 36th Street, and you could not get a bicycle through, there were twenty cars parked in our alley on both sides of the concrete at the time. By the time I had gotten home the wife had called the Northeastern and a Sergeant came over. He said he could not tag the cars. I said, "Why not?" I said, "Here is a flagrant violation of the law," and I threatened to take his number. He said, "Well, we will tag the cars on one side." I said, "No, you will tag every one of them." So they tagged twenty cars in our alley that night.

\* \* \* \* \*

(Tr. pp. 338-339):

Q. When the game was over that particular night, was there any occurrence? A. There were many curses cast at everybody or thrown at everybody in our immediate neighborhood. They were on the type "You old so and so, go to bed, hooray for the Orioles," and that went on until after twelve o'clock.

## CROSS-EXAMINATION

By Mr. Harlan:

Q. Doctor, you bought your house in October, 1939?

A. Yes, sir.

Q. What did you pay for it? A. \$8,850.

Q. Is that in fee? A. In fee.

Q. What is it worth today? A. I have no knowledge.  
I bought it as a home and not as an investment.

\* \* \* \* \*

(Tr. pp. 340-341):

Q. You are facing north so that your back would be to the Stadium; is that correct? A. To the Stadium and east of the Stadium, about 800 feet away.

Q. How far east would it be? A. I would say about 800 feet in a southern direction.

\* \* \* \* \*

(Tr. pp. 344-345):

A. \* \* \*. They even turned the lights on us last night.

Q. I know they did. A. And even though they had many a battery out, the back of our house was still flooded.

Q. You say many a battery was out? A. Many a battery was out, especially on the west side, and the back of our home was still flooded on the west side.

Q. Many a battery out on the west side? A. They did not have every complete battery on last night but our homes were still illuminated.

Q. Would you say the illumination was as bright last night as it usually is in the summer? A. No. because they have all the lights on then. But still our house last night was lit up so I could have read a paper in it.

\* \* \* \* \*

(Tr. p. 348):

### CROSS-EXAMINATION

By Mr. Robert Bartlett:

Q. Doctor Guyton, as I understand your testimony, you have no objection to the scholastic football games in the fall of the year, whether they are played in the afternoon or at night?

\* \* \* \* \*

(Tr. p. 349):

A. I have no objection to the scholastic or high school football games, because they are played, most of the events, in the day time.

Q. And I gathered you also don't mind the playing of Navy football games in the fall of the year? A. No, sir. I have no objection whatsoever.

Q. And the playing of night football games by the Colts last year did not cause you any unnecessary worry? A. No, sir. It was not a continuous series of games extending over the entire summer.

\* \* \* \* \*

(Tr. pp. 352-353):

### C. WILLIAM BROOKS

### DIRECT EXAMINATION

By Mr. Driver:

Q. Mr. Brooks, what is your occupation? A. Zoning Enforcement Officer for Baltimore City?

Q. How long have you been Zoning Enforcement Officer for Baltimore City? A. Since April, 1934, April 16th.

Q. Will you look at that map on the board, please, sir, and tell us whether you are able to identify it as a true copy of the Zoning Map of Baltimore City? A. That is a copy of the composite use zoning map of Baltimore city.

Q. Now, Mr. Brooks, can you tell us the type of zoning which is in existence in the area immediately surrounding Baltimore Stadium? A. The white on that plat shows residential and all of the area surrounding the Stadium is in the residential use district.

\* \* \* \* \*

(Tr. p. 354):

Q. To your knowledge, has there been an application for an extension, for an alteration of the use of the Baltimore Stadium since July, 1944? A. There have been no applications concerning the Stadium.

Q. That is to say, there have been no applications for an alteration, change or extension of a so-called non-conforming use? A. We have no file whatever on the Stadium in the Building and Construction Division.

Q. By that you mean what, that there has been no application or that there has? A. I mean there is no evidence in our file that an application has been filed.

\* \* \* \* \*

(Tr. p. 356):

Q. Mr. Brooks, has your department ever exercised any control over the use of the Baltimore Stadium, in so far as the Zoning Laws are concerned? A. We have not received an application concerning the Stadium of any description since I have been in the department.

\* \* \* \* \*

(Tr. p. 356):

Q. Do you draw any distinction in your department between the area of the Baltimore Stadium and the surrounding area than you do other property in the vicinity?

A. No, sir.

\* \* \* \* \*

(Tr. pp. 357-358):

Q. Would you step to that map, Mr. Brooks, and point out to Judge Mason, in extent approximately the area



that you say is zoned for residential use around the Baltimore Stadium, in blocks, if you can, just approximately? A. The whole area along 33rd Street, all the way over to Harford Road—there is on small commercial zone at Harford and Lake, and another small commercial zone off Loch Raven, and another one off Alameda, and on the west, toward Greenmount Avenue—is residential until you get to Greenmount, when it becomes first commercial.

(The Court) Well, not entirely to Greenmount, is it?

(The Witness) No, sir. The Old York Road. It begins on the east side and runs over into Old York Road. But that is known as a commercial zone at 33rd and York Road.

Q. There are, I believe, one or two instances of non-conforming uses in existence within that area, are there not? A. Yes, sir. I know of two; one at 33rd and the Alameda and one of them is at 36th and Ellerslie. Those are stores.

\* \* \* \* \*

(Tr. pp. 358-360):

#### CROSS-EXAMINATION

By Mr. Biddison:

Q. Mr. Brooks, you have told the Court that that white area surrounding the Stadium is residential. Actually the Stadium itself on that map is not in white, is it? A. That is in park property color, but it isn't a part of the Zoning designation at all.

Q. And the Stadium property itself is not zoned residential, is it? A. Oh, yes, sir. It is in the residential zone, but you will notice on the map Clifton Park and Druid Hill Park and the other parks, have a specific topographical designation, and this is in the same topographical designation as the other parks.

Q. Does that designate a non-conforming use in existence in the neighborhood or only residential? A. No, sir. That has nothing to do with the residential color.

Q. Actually the use of the Stadium prior to the Zoning Law was such a use as constitutes a non-conforming use, was it not? A. I would say it was; yes, sir.

(The Court) For the sake of the record, give us the date of the Zoning Act?

(The Witness) March 30th, 1931, effective in June.

### CROSS EXAMINATION

By Mr. Kemp Bartlett:

Q. Mr. Brooks, that existing use that existed prior to March 30th, 1931, is allowed to remain, is that correct?

A. That is correct; under paragraph 11, there are some existing non-conforming uses.

### REDIRECT EXAMINATION

By Mr. Driver:

Q. Any extension of that use which existed on March 30th, 1931; requires an application to the Zoning Board, does it not? A. That is correct, under paragraph 12.

\* \* \* \* \*

(Tr. pp. 360-361):

RALPH ZWEIER,  
1203 Windemere Avenue

### DIRECT EXAMINATION

By Mr. Driver:

Q. Mr. Zweier, how long have you lived at 1203 Windemere Avenue? A. I moved there in October, 1937.

Q. And you live there with whom? A. My wife and daughter.

Q. What is your business or occupation? A. I am in the steel business. I am employed by the Bethlehem Steel Company.

\* \* \* \* \*

(Tr. pp. 362-365):

Q. Mr. Zweier, from your own personal observation after you purchased your home in 1937, can you tell us what use was made of the Baltimore Stadium up to July, 1944? A. Well, I believe that was partly covered by the statement of what I said the activities there were more or less confined to the use of the public schools and a few of the universities, such as Notre Dame, Navy, Western Maryland, University of Maryland, and games of that type. However, in number, they were very few.

Q. When were most of those events scheduled with respect to the hour of the day or night? A. They were all day time activities.

Q. With respect to the season of the year, when did most of those events occur? A. I think we are all familiar with the activities of sports. Football is actually a fall activity, therefore most of the events were confined to the fall of the year.

Q. I direct your attention to the situation subsequent to the coming to the Stadium of the Orioles and ask you what facts you have observed, first, with reference to noise? A. The noises can be described primarily, and I think the most annoying thing we have to contend with is the loud speaker system they all have mentioned.

Q. I would like to ask you how loud is that loud speaker at your home? A. Lots of times we have to talk above the normal average tone because it is hard for us to hear, that is, both inside and outside of the home in the summer time, when the house is open for ventilation.

Q. Is that frequent or infrequent? A. That is a very frequent occurrence; whenever they have a game scheduled we have the same condition.

Q. I would like to ask you what you have endured with respect to the dust? A. Well, the dust covers my entire property, the house, the roof, my awnings are damaged. I have had to replace them since those activities started. They were absolutely ruined last year and they looked as though they are a couple years old already. So I hesitate about putting them up this coming year. The actual maintenance of the property is affected accordingly.

Q. In what respect has the maintenance in your property been affected by this dust? A. Well, besides washing and cleaning off the porch, the extra help in helping to keep the place clean, the window sills and porches, we have had the house painted twice, once in 1944 and again last year.

Q. I would like to ask you what you have observed with respect to the lights? A. The lights are annoying but that would be somewhat secondary to my objection for the simple reason I can find a place to protect myself from the lights, but I cannot do that with the noise.

Q. Do the lights come into your house at all? A. Oh, yes, indeed.

Q. Whereabouts? A. Well, my primary objection is my bedroom, which is of course the master bedroom.

\* \* \* \* \*

(Tr. pp. 365-369):

Q. How bright are those lights? A. Well, they are bright enough to annoy you. If I do want to retire, if I am able to fall asleep or just to rest, I have to draw the shades and during the warm weather that eliminates any possibility of circulation of air through the room, so it isn't very pleasant at any time.

Q. With respect to the question of dust and light, I would like to ask you how frequently or infrequently those situations occur? A. Dust seems to prevail at every game. If we are fortunate enough to have the weather man help us out with rain prior to the games, we might not have as much dust; but unless the weatherman helps us out with rain, it is very dusty.

Q. How about the lights, how frequent is that? A. That is every game, every night game they have is the same thing.

Q. What effect does that situation have on you Sunday afternoon in the use and enjoyment of your home? A. Well, I work seven days a week and I am home in the afternoon and I try to rest, which may be two o'clock or three o'clock, and at that time I feel I am entitled to some relaxation, which I don't get due to the hilarity and noises and so on.

Q. I would like to ask you what, if any, observations you have made with respect to rowdiness or damage to your property? A. I have two specific instances of damage to my property. One of them is a blue spruce tree I paid considerable for and it is broken down, and it was plain enough for anybody to see. The other is a gate I had between the house and the hedge and that is broken down completely and I had to replace that last year.

Q. I would like to ask you what observations you have made with respect to trash and debris, if anything, scattered about your property and that of your neighbors? A. Well, these night games, it seems it depends on the weather man again; if we have any breeze at all, naturally the papers if they are blowing in that direction, the wind is in our direction, we get the benefit of the papers and they may lodge in my hedge, my trees or shrubbery or against the house.

Q. Describe to Judge Mason the character and the type of paper you have been having on your property

and your neighbors' property? A. Well, it is newspapers and various circulars that might be passed out by commercial people, maybe programs from the Stadium itself. I often found liquor bottles many times, not once, but many times thrown over my hedge in the back yard. That seems to be the most popular place.

Q. Have you had occasion to make observations with respect to the use of your house as a lavatory? A. Yes. People have been there without my permission and we have had people to knock at our door and ask permission to use our property as a lavatory.

Q. Have they in fact used your property as a lavatory? A. Outside, yes, and a few times inside. People have come and asked us and I have given them permission to use the inside, but certainly not the outside.

Q. What is the difference between the use of the Stadium since 1944 and the use of it prior to 1944, in your opinion? A. Well, the difference is the number of activities that prevailed at the Stadium during the past two years. The condition, as I mentioned, more or less prevailing in any one game becomes more or less routine. I can describe it best possibly by the fact that you might consider it like Hallowe'en, which as adults we do tolerate, but I don't think we would like to have it every night in the year. It certainly would become a nuisance to you and we have the same condition up there in the Stadium. There are too many events there which have become annoying.

Q. Does the timing of events make any difference? A. Well, I am home at night and that is primarily my objection. Of course, my wife is at home and my child at school in the day time. I don't think it is very pleasant at any time because I get the same results, it doesn't make any difference, day or night. If there is a nuisance or debris, I have to clear it up.



## CROSS-EXAMINATION

By Mr. Harlan:

Q. Mr. Zweier, what did you pay for your house in 1937? A. I can't give the exact figures. Something like \$6,200 for the house.

Q. How much is the ground rent? A. \$2,000.

Q. That would be \$8,200 approximately in fee? A. Approximately.

Q. What is it worth now, do you know? A. I don't know.

\* \* \* \* \*

(Tr. p. 375):

Q. What time do you usually go to bed? A. I have had to change my schedule somewhat. During the summer I can't go to bed much before 11:30.

Q. In the summer time, is that your usual time of retirement? A. It has been. Sometimes I retire around 10:30.

Q. Around 10:30? A. I used to; yes, sir.

Q. When did you retire at 10:30? A. I did last evening, but during the activities of the Stadium I can't do it. I won't get any rest.

\* \* \* \* \*

(Tr. pp. 384-385):

OTTO K. SCHMIED,  
1317 Windemere Road

## DIRECT EXAMINATION

By Mr. Driver:

Q. Mr. Schmied, what is your business? A. I am head of the Department of Modern Languages of Forest Park High School.

\* \* \* \* \*

(Tr. pp. 385-386):

Q. Mr. Schmied, you live in blocks about how far from the Stadium? Can you give the Judge an idea? A. Yes. I live in the second block from the Eastern edge of the Stadium, 1317 Windemere.

Q. And you bought your home when? A. In the fall of 1937. Mine was the first house built on Windemere Avenue.

Q. And you live there with whom? A. Mrs. Schmied at the present time, since my son was in the service and in the interval got married.

Q. Mr. Schmied, you have lived pretty much all your life in Baltimore? A. Practically all my life; yes, sir.

Q. By the way, do you have any official position in connection with scholastic athletics in the City? A. Yes, sir. I was one of the organizers and for twenty-eight years have been president of the Association of Public and Private Schools known as the Maryland Scholastic Association, which controls to a large extent the program of athletic activities for the public and private schools in this city; such, for instance, as the recent basketball series last week, the wrestling tournaments, golf, tennis and swimming. In fact, the general program of activities amongst the boys; not the girls.

Q. And you still hold that position? A. Yes, sir.

\* \* \* \* \*

(Tr. p. 387):

Q. And have you or not been familiar with the uses made of the Baltimore Stadium prior to July, 1944? A. Yes, sir. In general I was reasonably well acquainted with it. I lived on the Alameda for some twenty years, which is relatively close to the Stadium, and, of course, being engaged closely with the high school activities of the State and City Colleges, to an extent I was reasonably well posted on the uses of the Stadium.



Q. Will you tell us what, from your observation, have been the uses of the Stadium prior to 1944? A. In general, my observation was that there was a number of events occasionally held during the summer, such as the Fourth of July celebration in conjunction with Five and Drum Corps, and bugle corps, and Easter Services in the springtime. One summer I distinctly remember the symphony concerts, which were admitted not very successful. Then, of course, when the fall came, the football activities of the high schools, all in the afternoons as far as we could get the use of the Stadium, then some college games, which of course came along too.

• • • • •

(Tr. pp. 388-396):

A. \* \* \* Of course, after 1939, when the lights were erected, there was an extension of the schedule, especially as far as the night games in football. That meant that the public schools played on Friday night and on Saturday night. Prior to that, all games had to be played in the afternoon. And I might say in passing, Mr. Driver, I met a number of times with the then director of Health and Physical Education of the Schools and some others, with some of the Stadium Committee, or Park Board especially, hoping at one time to get an extension of the use of the Stadium for public schools and private schools for lacrosse and track meets and other events, because the schools felt, or shall I say perhaps, I felt that a more extensive use of the Stadium was justified since it was there. Of course, I felt that way particularly when City College was built on the hill, but hoping that it would become the home grounds for the City College for its games, but it never materialized.

Q. Can you tell us why it did not materialize, particularly since 1944? A. I would not know that this is the particular reason. We were successful prior to that in securing an extension of the use. That was definitely so.

Of course, the public schools frequently had to yield to outside organizations such as Army, Navy or Notre Dame, which stipulated in their programs that the Stadium was not to be used perhaps one day or two days prior to their games, so that the public schools and the private schools had to yield their use of it. I remember distinctly that when the Oriole team came in that the public school schedules had to be changed. That was in the championship year of the Orioles, and it had to be changed that year.

Q. Is it possible for the public schools' football schedules in the fall to be established until it is definitely determined that the Orioles are not going to be involved in a playoff? A. I can't answer that accurately. My impression is that the schedule is made up for the public schools at the present time subject to certain contingencies, and I believe that the contingency is the possibility of a championship series being engaged in. I am not certain on that.

Q. Subject to July, 1944, Mr. Schmied, I would like you to tell us what you have observed with respect to the Orioles use and occupancy of the Stadium, first of all, as to nights. A. Well, let me preface that by saying first that the years we spent in our home on Windemere Avenue from 1937 up until 1944, were thoroughly enjoyable because of the rather tranquil and calm area in which we were living, off of the main highways, although very close to them. Close to transportation and yet far enough away not to be disturbed. Mrs. Schmied and I frequently made the commentary to each other how fortunate we were, living in an area so close to the school, it was then edging in, close to facilities to get down town, and yet in this quiet and tranquil neighborhood. Of course, there were games in the fall and yet they occurred in September and October and November, when it was possible to close windows, and consequently the effects were not as apparent as those that came to us during the summer when the Orioles

started to play. Obviously, the noise, the congregating of a large number of people is bound to be disturbing and annoying, and steadily increased in geometrical proportion.

Q. What noise is it you hear in your home? A. We hear considerable noise, the general noise from the yelling and the noise from the loud speaker. We definitely hear it.

Q. Can you hear what is said over it? A. That depends very much on the direction of the wind and very much on the volume of the speaker. At times we have been able to hear distinctly the names of various players being called and we have been able to understand certain commentaries being made and the announcement of certain events to come at some future date.

Q. And you heard that inside your house? A. I can hear it more loudly in my study. I have a study on the southwest corner, which faces the Stadium, and I have my library and desk there and do all of my work, if I can, in that particular room. I was very much disturbed there and I had to take my work to the living room, which is on the east side, and the sound from the Stadium is volleyed through intervening windows and doors and whatnot. So it goes. It is rather rising and falling murmur to a greater or lesser extent, depending on the volume of the sound, the number of people, and the direction of the wind. But aggravating in a sense that the repetition of it either in the course of an evening or in a series of evenings gets to be disturbing and annoying and definitely has a psychological effect upon you which is very unpleasant.

Q. What observations have you made with respect to traffic and the problems caused by the congregation night after night of these people at the Oriole games. A. The traffic, of course, is to be expected when large groups of people are going to the game and coming

from the game. It is obviously annoying especially after you have spent some four or five years with relative quiet and suddenly having this thing foisted upon you. So we find in the evening when the games are under way large numbers of cars racing uphill. Then, of course, at the closing period of time, perhaps anywhere from ten minutes to thirty to thirty-five minutes, depending on the number of people, the cars slowly drifting down Windemer and toward the boulevard, motors running more or less loudly, depending on the quality of the engine and the year, and the blowing of horns, rather loud talking, and the general annoyance you get from large groups of cars moving. The parking problem is another which is rather uncertain. Sometimes parking is prohibited entirely, sometimes it has been prohibited on one side of the street, sometimes on both sides of the street. If there is no parking, of course we cannot park either. If parking is allowed, we find when the games start at 8:30 there may be cars parked in front of our house at 7:30 even though there is ample room at the Stadium, from which they could get away faster than if they are down at the boulevard. Those are the general conditions; the usual noise of people moving back and forth and motors running.

Q. Do you have a car? A. I have a car; yes, sir.

Q. Are you able to get in and out of your garage? A. Outside of the first year, we have had no trouble in our particularly alley. I have been annoyed by Sunday games as much as others on the traffic and parking problems. I suppose I have no right, as a citizen, to object to someone else using the parking place in front of my house, but if you wake up in the morning and you go out and find this peaceful area, where everything is quiet, birds are singing, flowers blooming, you go to Church or Sunday School—I happen to be the Sunday School Superintendent of a large school—you go out to dinner, you come back, and you are no longer in the same world. From half past one or one o'clock on,

the entire atmosphere, the entire field of the neighborhood is changed. I merely mention that as one of the aggravating effects that grow on a resident because of a certain, constant annoyance that comes to you, perhaps unjustifiably, but nevertheless comes.

Q. I think you have explained in some detail, you may have some further observation you want to add. You are familiar, of course, with the use of the Stadium as it had been in the past. What is the difference in the use since 1944 and the year prior to 1944? A. The obvious frequent use of the Stadium during the summer months, that is the primary difference. The months of May, June, July and August, to the best of my recollection, except for occasional affairs during the summer was practically—prior to that it was practically never used at all. That was my general impression. There may have been definite occasions of smaller groups of people, but they did not impinge into my area, so I was not aware of it. The chief difference then, I would say would be the frequency of the use.

Q. Does the season of the year have anything to do with it? A. Oh, very much so. I think I indicated that before. We were aware of the football games in the fall and we have never had any objections to them. As individuals, we attended many of them. The difference there is the fact you are able to close your windows and doors without any inconvenience, which of course in the summer is impossible.

Q. How about Sunday use prior to 1944? A. As far as I can remember, I don't recall of any Sunday uses. There may have been some but I don't remember.

Q. What effect has this constant use had upon the grass, shrubbery and so forth, in the area surrounding the Stadium? A. My observation has been that the area around the Stadium had been deteriorating for some years prior to the Orioles moving in there. I am perfectly satisfied in that respect. I don't think the

absence of all the grass of the Stadium area, east or west, was entirely due to the use by the Orioles. Definitely, of course, with the more frequent use by them during dry and hot weather, there must have been a greater destruction of whatever lawn was there.

### CROSS-EXAMINATION

By Mr. Harlan:

Q. Mr. Schmied, what did you pay for your house? A. Something over \$8,200.

Q. Do you know the value of it today? A. I would not know the value of my own house; no, sir. I am not interested in selling, consequently I would not know.

\* \* \* \* \*

(Tr. pp. 397-399):

Q. Was it also your intention or thought that the Stadium should be used more frequently? A. Definitely. I felt as long as it was there, there ought to be more frequent use. Of course, I have modified my opinion since electric lights came into common usage.

Q. But you felt from an investment standpoint and from a use standpoint—A. Definitely not from an investment standpoint. I think every community has the right and is justified in spending a reasonable sum of money in the maintenance of parks and facilities for boys and girls without expecting any return on financial capital investment but to expect returns entirely in character development.

Q. The use of the Stadium in the summertime by the Baltimore Orioles would not interfere, would it, with scholastic schedules? A. Not to a great extent. The only time, as I said, was in a championship year, where definitely we had to change schedules because you had a late season. As I said before, it is my impression—I won't swear to this—because most of the schedules are made in the central public schools office and we approve

them, and I think there is a certain contingent basis on which certain games billed for the year are arranged. I think Mr. Armstrong knows something about that.

Q. In regard to the traffic, Mr. Schmied, how did that compare with the football traffic? A. Well, I would say in general approximately the same. As a matter of fact, it is perfectly obvious when you have a big service game that there is even more traffic, but you must not forget that the time of the year is different and you have to close windows at one time or another; and it isn't the amount of traffic so much as the frequency of its occurrence, that is disturbing.

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(Tr. pp. 402-403):

#### CROSS-EXAMINATION

By Mr. Kemp Bartlett:

Q. Mr. Schmied, you have mentioned your acquaintanceship with Herbert Armstrong, business manager of the Orioles. You have never found anything but cooperation in arranging for school games, have you? A. Definitely.

Q. The Orioles are willing to get out and let them come in? A. Yes, sir

Q. It is a mutual adjustment, is it Not? A. I would not say the Orioles would get out, but if the park was not taken.

Q. I think if you go back to 1944, you remember they did go to Buffalo? A. You mean in connection with the Public School schedule?

Q. Yes. A. Yes, that is true.

Q. There has been no spirit of lack of cooperation? A. Not with our association, no, I attribute that a lot to Mr. Armstrong. He was an officer in our association for many years.



JACOB GROSS, JR.,  
1310 East 33rd Street

(Tr. pp. 403-408):

DIRECT EXAMINATION

By Mr. Driver:

Q. What is your business, Mr. Gross? A. Mr. Driver, I am an insurance agent and broker.

Q. When did you buy your home on 33rd Street? A. Bought it at auction in July of 1941.

Q. Mr. Gross, will you tell us what you have observed with respect, if any, of the noise coming from the Stadium since July of 1944? A. Mr. Driver, there has been quite a difference from the time I first purchased the property and I might say I have lived in the neighborhood—I was on Chilton Street for eighteen years, 1605 Chilton, which is just south of 33rd, and the third door from Alameda, so I have been in the neighborhood for at least twenty-five years. In 1941, when we purchased the property there, because I liked the open space of the City College, the college atmosphere. Then when the Orioles came in there was altogether a different atmosphere as to noise, and so on.

Q. I would like you to tell us what you have observed with respect to noise, what kind of noise, and how does it affect you in your home? A. I will take first the traffic. In other words, we are west, on the north side of 33rd Street, west of the Alameda and there are three lines of traffic that flow into that section going west, and at baseball time it will start probably in the neighborhood of seven o'clock. My curb in the center of 33rd Street is a parking area, and it is just a solid block of traffic, blowing horns and police whistles not only until the time of the game, but even after the game is over.



Q. How long after the game is over do you observe that traffic situation? A. Can I say this to you, that even as to the parking, for instance, there are times when there is no parking in that area. In fact, most of the times there is no parking. But they do permit parking on the south side along the City College grounds. Toward the curb there is sort of a circle that goes down around the Alameda, and as to that parking they come along in trucks. A number of trucks not only park sometimes along 33rd Street but Loch Raven Boulevard south of 33rd Street.

Q. Are you able to hear the loud speaker at your property? A. Our problem has been this, Mr. Driver. The noise of the traffic in the front; if my wife and I try to sit on the porch, we have that problem before or after the game. But there are always times when this noise—I have a porch in the back and the lights on that porch and the noise of the loud speaker is just unbearable time and time again. These lights, massed lights, I might even say they are three high, placed toward the west, they are three high placed toward the east. There is one of them that goes directly down the alley in the back of the home and the other two are even higher than the houses. I think Captain Mooney had a house there on Loch Raven Boulevard and Lakeside, but I have even noticed that that light is over the lot of one or two of them. I will say one of them is even above the roof of his house. That gives us a light on the porch and if we want to sit in the front, we have the traffic problem and if we sit in the back we have the lights and the noise of the loud speaker.

Q. How frequently does that situation exist? A. Well, it is during the summer months when all of the windows have to be up and when the ball games are on. I will say that I am one man that loves sports. I am not after fighting the Orioles, I love baseball, and I don't want to be antagonistic toward them, but we have this home and I think I have the right to enjoy it.

Q. Did you have this difficulty prior to July, 1944? A. Not the way it is now. Mr. Driver, we had the school games and so far as my information is concerned—I have made a study of this thing and it was always my impression, even when I went there that it was the school atmosphere that I liked, and the Stadium was to be used for that purpose. And yet, when the football games are on in the fall and the windows are down, you are not sitting on the porch, the weather is such you have to sit indoors.

Q. You have made of study of the situation, you say. What do you mean by that? A. In other words, I will say this. When I say I studied the purpose of the Stadium when it was put there, if it is permissible, and I know we are governed by the rules of evidence, for instance, I can go back to the time, from the time the Stadium property was purchased.

Q. You were on the Mayor's Stadium Committee, weren't you? A. Mayor McKeldin put me on some sub-committee with Mr. Glenn Martin.

Q. And you served on that? A. I served on that.

Q. And you made a study of this situation? A. I made a study of this situation; yes, sir.

Q. And you have made a study of the history of the Baltimore Stadium, haven't you? A. Yes, sir.

Q. And you are familiar with it? A. Yes, sir. At least I think so.

\* \* \* \* \*

(Tr. pp. 410-413):

Q. What observation, Mr. Gross, have you made with respect to trash, debris, and litter being strewn about your property and your neighbors' property when the Orioles have occasion to use the Stadium? A. Well, after every game when they come out you find newspapers, you find programs, you find whiskey bottles and litter all over the place.

Q. Is that frequent or infrequent? A. That is after each game. Of course, before that sometimes when there are football games, we find the same thing. I want to be fair. But I mean it is night after night when baseball was there.

Q. Have you taken any steps in your home to screen the light from your porch? A. I have had an awning put on the west, and in fact, even the front door; but mainly to the west to protect us from the light because the lights, you can read a paper on the porch.

Q. In blocks how far are you away from the Stadium? A. I would say a good block, or, in other words, from Ednor Gardens to Loch Raven is just about a half block, and I am in about the middle of the block between Loch Raven and the Alameda.

Q. Have you observed any acts of vandalism or rowdyism in connection with your property, Mr. Gross? A. I love flowers and I have a little hobby or pasttime of gardening. When I was on Chilton Street, to give you one or two instances, there was a couple of cranes that were given to me in Germany and on Chilton Street I had had them for years, and I cemented them in over a little pool on 33rd Street—this was during the baseball season—and they were not there two or three days when my wife said to me, "What has happened to the cranes?" I said, "I don't know, they are out there." She said, "They are not." When I went down, here was the foot of one of them in the cement and the two cranes were gone. Following that I had a little decoy duck in the front and in a little time that was gone.

Q. How about damage to your shrubbery? A. Well, that is mainly in the rear. It is just a low stone wall, maybe the height of this table. But out front there are two flowering almonds and they are stripped. In other words, after it blooms in the spring they begin to make their buds toward the fall, like azaleas. When they come in the summertime and strip these, it means

you destroy the buds and there will be no blooms in the spring.

Q. And that has happened to your property? A. Yes, sir.

Q. Did you have any of these complaints prior to the use of the Stadium by the Orioles? A. Not the condition we had after they went in there.

\* \* \* \* \*

(Tr. p. 413):

A. School boys may come along and do some little damage, but it hasn't been the damage and a condition night after night like after the Orioles went in.

\* \* \* \* \*

(Tr. p. 413):

(The Witness) Mr. Driver, could I make one other statement?

\* \* \* \* \*

(Tr. pp. 413-416):

(The Witness) All right. I had a heart condition February 15th, 1941, and I was in Union Memorial—this isn't an argument, but I want to give you the reason for the nuisance, what it has meant in our home. I was in Union Memorial for seven weeks. I got out and was trying to get back on my feet. On October 29th, 1941, after I was just getting back, my wife developed a nervous condition. I had her to Doctor Sargent's, then she got worse and worse, until I was advised by Doctors to put her in Sheppard and Enoch Pratt. She was away for thirteen months. She didn't get home and discharged until November of 1942. We were doing everything to enjoy the peace and comfort of our home, until this thing come along, then it was night after night. I slept in the back room. She had the front. It is particularly at night after she tried to get some rest. About eleven o'clock these games would be over, then the blowing and the whistling and traffic and the back firing of the

trucks, and the conditions at that time, I just used to have quite a bit of trouble trying to quiet her down, she was so disturbed, and I was compelled upon the doctor's advice to get all the rest I could get, then I had the lights and the noise from the Stadium, because in the summertime the windows were up. It did materially affect the enjoyment of our home.

### CROSS-EXAMINATION

By Mr. Biddison:

Q. Your wife's condition, this nervous breakdown she had, Mr. Gross, actually occurred prior to the Orioles coming there? A. That is correct. It was October 29th, 1941, and they discharged her in November, 1942.

Q. Also in regard to the lights of the Stadium, they were on the Stadium and had been used by the Stadium prior to the purchase of your home? A. That is correct. I don't remember exactly when they were put there, but they were there.

Q. And the manner of lighting in so far as it affected your home, was that substantially changed in 1944 or was it substantially the same? A. No, the same lights, and even the two I heard Mr. Bartlett say, the two put up by the Orioles. I want to be fair about it.

Q. When you bought your home at auction, what price did you pay for it? A. \$9,450. It was Howard Sweeten's home. It originally cost \$17,500 and I bought it at auction in July 1941, for \$9,450.

Q. Is that a fee price? A. Yes, that's right.

Q. What is it worth now? A. As a home, to be frank and honest with you, nobody could put a price on my home. I am not offering to sell it. I will say this, that if this condition keeps on, for the health of my wife and even myself, I will probably have to sell it when I can find another home.

Q. This much is true, Mr. Gross, that when you moved from Chilton Street to 33rd Street, you had moved to a street that normally carries a substantial traffic flow?

A. That's correct.

Q. From a street that was otherwise relatively little traveled? A. That is correct.

\* \* \* \* \*

(Tr. p. 417):

Q. About your cranes, are we to understand that ball fans took them or you really don't know, do you? A. No, I couldn't prove it. In other words, they disappeared and I have had them for years.

(Mr. Kemp Bartlett) What year was that?

(The Witness) I think it was in 1944. Now, don't hold me to that. I know it was since the Orioles were in there.

(Tr. p. 420):

CHARLES A. KNIGHT,  
3600 Elkader Road

# DIRECT EXAMINATION

By Mr. Driver:

Q. Mr. Knight, how long have you lived at 3600 Elkader Road? A. That particular address since October, 1941, and in the neighborhood all my life.

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(Tr. p. 421):

Q. Where are you employed, Mr. Knight? A. Baltimore and Ohio Railroad.

Q. And you have been for how long? A. Nineteen years.

Q. In what capacity? A. I am supervisor of the plumbing and heating division of what is known as the

Baltimore West End Division, with headquarters at Baltimore, Maryland.

\* \* \* \* \*

(Tr. pp. 423-434):

Q. Have you or not been familiar with the use and occupancy which had been made of that Stadium prior to 1944? A. I would say mostly—I am not a sport fan and have not taken particularly any dates and set them down, but I can pretty nearly say we just had infrequent events there from time to time until the ball club came there.

Q. Since 1944, I would like to direct your attention to the noise, if any, which you have observed when the Oriole games were being played in the Stadium, and ask you to tell the Court about it in your own way. A. Well, certainly, I am in an unfortunate location and I get the intolerable noise, and I also definitely say it is impossible to carry on a normal conversation in our home.

Q. Noise from what? A. Well, particularly from the loud speaker, the music coming over it, the various announcement, and likewise the yelling, the rooting of the fans in the park, along with the bells and horns and most any contraption that would make a noise.

Q. How frequently does that occur? A. That is every day that the Orioles have a game there.

Q. You say that has been almost continuously since July, 1944? A. Yes, sir. Whenever they have a game there, it is a continuous affair.

Q. Mr. Knight, in connection with your work with the Baltimore and Ohio Railroad Company, do you work regular hours or are you on call from time to time? A. Anyone not familiar with actually running a railroad, it would be hard to understand how I work around the clock. My tour of duty with my men is from 7:30 a. m. until 4 p. m., but I am subject to call seven days a week,



twenty-four hours of the day, and it is nothing unusual for me to go twenty-four or thirty-six hours without sleep, due to wrecks and other handicaps of the railroad. I might cite one instance. I left this Court here Monday evening approximately a quarter of three, when his Honor adjourned Court. I went back to my office and stayed there until 5:30 and I arrived home at ten minutes of six, and I had a call in of trouble in Washington. I left and didn't get home until 3:30 the next morning and I had to get up again at six o'clock and go for another day.

Q. What was your practice with respect to getting rest? A. Well, it is possible I can leave the office around 4:30, and I usually get home around the neighborhood of five or ten minutes of. It is my usual time at 5:30 to have dinner and for the past ten years I have sought to make it a practice to lie down and get a couple hours rest because if I don't, probably at the time I should retire around ten or ten-thirty, I am out on the job and maybe don't get back at all until perhaps the next evening around four or five o'clock.

Q. Have you been able to take these rest periods since July of 1944? A. That would be impossible, Mr. Driver, and certainly it has been an untold misery on my part and has cost me a lot of money, which can be verified by medical doctors. I have had a nervous breakdown in that time due to the fact that I have been continuously unable to rest since the Orioles have been playing in the park.

Q. Now, I would like you to tell the Court, in your own way what, if any, effect the lights have on your home and how it affects you in the use and enjoyment of your home? A. Well, you just cannot stay in the home without pulling the blinds down or closing them. My house is a corner piece of property and the south side of it faces the Stadium, and I would say it isn't over a city block from my house to the rim of the Stadium itself. By the lights certainly I can read on the front



porch, if it was permissible to sit there, which in late years I have found it was not, due to the obscene sights and the profanity used.

Q. Who lives there with you in this 3600 Elkader Road? A. I have two daughters. I had both of them there up until December or January, 1945, the youngest daughter was married then and went west. The oldest daughter and my wife lived there up until just last November a year ago, and she was married and now living in Irvington. This past January a year ago I had the young daughter come back from the west and bring the son-in-law and my grandson back to me, so I have them with me now and we have the daughter, son-in-law and grandson, two years and two months old.

Q. What part of the house do these lights shine into? A. We have three bedrooms. If I can describe it right, one of them is on the south side to the rear and the other one is on the rear, which is obscured from the lights, and the front bedroom and the one on the side in the back is definitely lit up like daytime.

Q. How frequently does this light situation bother you? A. Whenever the light is on regardless of who is in the Stadium.

Q. What about the dust? Do you have any complaints about that? How does that affect you? A. It has ruined the home and not only ruined my home, I mean just that we have ruined our hardwood floors, which had been kept waxed—and this was before I had the grandson—and he has helped to ruin the rest of it. But our furniture has been ruined and the wife is practically to the point of a nervous collapse. I might say we had lived a married life for twenty-four years without any personal differences or disputes among ourselves, until the continuous hounding of me coming home and complaining about the unbearable conditions of dust, that I would not like to say what I said under the temper I lost and told her my idea about it. But for the first time I can

recall in my life that I used profanity to my wife, and it nearly broke her heart when I made the remark I did about the dust and the continuous complaints I had been getting, day in and day out. It isn't only when the Orioles play there now, but whenever the weather is dry, whether it is December or January, the year round whenever the good Lord blows a breath of air, there is dust. There is nothing left of those surrounding grounds but the mud or dust hole, and whenever there is dry weather and the wind blows, regardless of whether the Orioles are there or the football team, we have a horrible dust situation. You can dust in the morning and write your name on any piece of furniture two hours afterward, if there is any air stirring in the neighborhood, when the windows are up, as they are in the summertime, and if they were open in the wintertime you would get dust just the same.

Q. What have you observed with respect to the use of your property or your neighbors' property by some of the people who attend these games using that property as a lavatory? A. Well, I have had pleasure, being a corner house, in having a hedge that cuts across the front approximately twenty feet, maybe eighteen feet, and then along the alley line, oh, approximately seventy-two or seventy-five feet. Since the Orioles have been there I wouldn't just assume that these people were human beings or class them as such, but they ruined my hedge by urinating on them as many as five at a time. I have seen them using my hedge for a lavatory and it can be verified if anyone will take the interest to go out and look at it. It is in a ragged looking condition today. When a human being gets that low in life, I don't just call them human.

Q. How frequently does this situation occur, Mr. Knight, the use of your property or your neighbor's property for the purpose of a lavatory? A. It is hard for me to say, Mr. Driver. We have evidence that they practically ruined the entire side of the hedge, killed

it; but in the back, between the door leading out of the back of my basement and the side of the garage, that is a common occurrence to see where two or three have used the corner, which is somewhat dark there, and that is practically after every game. That isn't only when the Orioles are there either. I have that when football games are there. We had it there when we had the Army show out there. I find that things are unpleasant at other times besides the Orioles. I believe if they were there as frequently as the Orioles, they would be just as objectionable as the Orioles.

Q. Let me ask you this, what, if any, observations have you made with respect to being able to see people who use the toilet facilities at the Stadium? A. Well, I don't know much about it, but they certainly did not have adequate facilities and never had sanitary facilities, until the Orioles I might say went there. Maybe that was one asset we got. But certainly there isn't anywhere near adequate facilities to take care of the public that attend these games, and it is my honest opinion that more people use the lots outside than use the facilities inside.

Q. Have you seen them do that? A. I have on a number of occasions. In fact, it is utterly impossible, as the crowds gather for the games and after the games, to sit on my front porch. I am in an unfortunate position, where the curve of Ellerslie Avenue and 36th Street come together and the focus of the headlights of the automobiles cover the ground of the Stadium, and I have counted as many as eight or nine men standing between machines and make no effort to cover themselves when the reflection from the automobiles shines on them.

Q. What have you observed with respect to debris and trash and litter being strewn about the neighborhood after these Oriole games? A. Well, we have had trouble enough to find enough containers to put in paper cups, newspapers, programs, score cards, whiskey bottles and most everything imaginable into the front yard and on

the shrubbery in the front, and now there will soon be a law in effect where we have to put them in metal containers and I will have to use probably five instead of one or two to hold the rubbish that has been in the last few years cast on my lot.

Q. Is that situation frequent or infrequent? A. That is frequent.

Q. What have you observed or heard with respect to profanity used by some of the people who attend these Oriole baseball games? A. Well, that's a regular occurrence. Of course, we think the majority of the people that attend those games are upright citizens, who know how to behave themselves and they do. It only takes four or five hundred disrespectful people to create a regular destructive Hallowe'en atmosphere in the neighborhood, which is every night of the game, and profanity is heard every night.

Q. Do you hear it in your home? A. I certainly can.

Q. Has there been any change, have these complaints for the most part existed since 1944, or did you have them before that? What is the difference in your situation since the Orioles moved into the Stadium? A. Well, the frequent use and continuous use as compared with the infrequent use of it, and we are more particularly disturbed because it is night time instead of what would usually be the afternoon events, and while it was only occasionally before, during the summer months when it is hot we like to get a little relaxation at home, and it is impossible when the game is there and it is a continuous affair. As I stated a while ago, if it is football or any other continuous activity that drew a crowd, it would be just as objectionable as it is with the Oriole games.

## CROSS-EXAMINATION

By Mr. Harlan:

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(Tr. pp. 435-437):

Q. One other question. I think you testified you had a nervous breakdown, am I correct in that? A. That's right.

Q. When did that occur? A. 1945.

Q. I think you also testified that you worked around the clock from 7:30 to 4:30, and after that you are called? A. That's right.

Q. It is not unusual for you to go twenty-four to thirty-six hours without sleep? A. That's right.

Q. How long has that continued, your going for periods of twenty-four to thirty-six hours without sleep? A. That twenty-four to thirty-six hours without sleep would happen maybe once in three or four months or once in six months.

Q. For how many years? A. For the past ten years I have been in this particular position.

Q. You want the Court to believe that the Orioles at the baseball park caused your nervous breakdown? A. They certainly contributed a great deal to it.

Q. Did they cause it? A. Well, I personally feel so; yes, sir.

Q. Wouldn't you have had a nervous breakdown working those hours, no matter where you had been? A. No, sir.

## CROSS-EXAMINATION

By Mr. Kemp Bartlett:

Q. Mr. Knight, you said if other teams or football games used the Stadium more frequently, that would be as objectionable to you as the Orioles? A. Yes, sir.

Q. You don't notice any difference between the crowds, do you, the trash and litter is the same? A. Principally I will say it is beyond your control or your club's control, but for the past two years it has seemed to be a contemptible attitude among some of the fans because there has been some objection raised to the Orioles playing there, and they make those remarks in that area up there, profanity, because some of these grouches are complaining, and they are purposely destructive in their attitude.

\* \* \* \* \*

(Tr. pp. 438-439):

Q. About the debris and trash and litter, Mr. Driver asked you about after Oriole games, I want to ask you about the football or other games. A. I would say we have more after baseball games in the past two years for the same reason, because I can definitely state I have heard them announce over the loud speaker or heard them request over the loud speaker that the people should leave newspapers they have been using to sit on, on the benches, to kindly leave them in the Stadium where it would not be blown around and where it would be easier to gather up. But apparently that is an invitation to gather all you can get, because when I have gone out purposely to sit on the porch or at the window, which gives me a clear view of the situation, I have seen them coming out with bundles in their arms and instead of dropping them into one pile, they separate them and begin to drop them as they go along, and they are dropping them as they pass my door.

Q. You have heard the request made for them to leave the papers in the Stadium? A. I have.

Q. How much did you pay for your house, Mr. Knight? A. I bought my home privately from a personal friend. It was during the depression in 1944, and at a price of \$4,500.

Q. Was that in fee? A. No, sir.

Q. Subject to a ground rent? A. \$96.

\* \* \* \* \*

(Tr. pp. 441-449):

S.C. GUNDERSDORF,  
1200 Lakeside Avenue

DIRECT EXAMINATION

By Mr. Driver:

Q. Mr. Gundersdorf, you live 1200 Lakeside Avenue?

A. Yes, sir.

Q. With reference to the Baltimore Stadium, where is that? A. That is on the corner of Ednor Road, on the northeast corner.

Q. Are there any houses any closer to the Stadium than you are? A. No, sir.

Q. In other words, right across the street from your house is a parking lot? A. Yes, sir.

Q. Then comes the Stadium itself? A. Yes, sir.

Q. You bought your house when? A. In 1936.

Q. What is your business? A. In the wholesale paper business.

Q. Were you familiar with the area surrounding the Baltimore Stadium prior to the purchase of your home in 1936? A. Yes, sir, I was.

Q. How long had you been familiar with it? A. Well, I lived on 1706 East 32nd Street, just two squares, and on the south side of 33rd Street near Alameda.

Q. How long had you lived there? A. I lived there two years.

Q. Before you bought this house? A. Yes, sir.

Q. And you are familiar with the uses that had been made of the Stadium prior to 1944? A. Yes, sir.

Q. Without going into detail, you have been sitting in Court here for several days? A. Yes, sir.

Q. Do you agree with the uses that have been described, namely, that they were infrequent and of a scholastic and collegiate nature? A. Yes, sir.

Q. With some few exceptions of a patriotic and civic nature? A. That's right.

Q. I would like you to tell the Court, Mr. Gundersdorf, what you have observed since July of 1944, when the Orioles came into the Stadium with respect to noise?

A. Well, of course, in the summer time the Stadium was practically not used, only for Fourth of July celebrations. When the Orioles moved in in July of 1944, from that time on it is more like an atmosphere on the edge of a circus, I would put it.

Q. Tell the Judge what you mean by that, describe it?

A. Well, on Sunday, Judge, at twelve o'clock the crowd starts to gather, then there are cow bells going past your house, people carrying these cow bells, hot dog stands are open right across the street from me on the parking lot, the crowd commenced to come in cars, there is no parking in my block and there is no parking on Ednor Road. I fortunately have a driveway that I can park my own car in. That continues on until about two o'clock when the parking lot gets filled up, then probably the loud speaker goes on at 1:30 and they start to play the records, announcements of various sorts, the line-up of the game, then that subsides and the game gets started. As a general thing, I have got to the point on Sundays that I get away as soon as possible because of the continuance of that every Sunday you cannot enjoy your own home. I have to get away from it.

Q. How loud is that speaker at your home? A. Well, even with my windows closed on account of the dust



from this traffic, probably 500 automobiles right directly across the street from me that are parked there, even with the windows closed the loud speaker is very loud. I mean it comes right through the wall at you; and if I happen to have in the summer time, my east window open the sound hits the wall of my neighbor's next door and bounces back, sort or ricochets. You can stand it for a few Sundays, then you just have to get away from it.

(The Court) You are the first house towards the Stadium, are you?

(The Witness) Yes, sir.

(The Court) You must be in the same relative position that Mr. Green occupies on the next street.

(The Witness) Yes. He is at 33rd and I am at Lakeside.

Q. You have told us you have observed this noise from the loud speaker and the parking and crowds and the hot dog stands, and so forth, how frequent is that, Mr. Gundersdorf? A. That is at every game, sir, that same thing is repeated.

Q. And that is so whether it is at night or Sunday, is it? A. That's right.

Q. You were telling us particularly about Sunday games, the beginning hour and what occurs. Does the same general situation exist with respect to the night games? A. Yes, sir, it does.

Q. What time does the loud speaker go on while the night games are being played? A. The night games start I think generally at 8:30 and the speaker is on before eight o'clock. They have records there and there are various announcements of sport events, baseball scores and so forth.

Q. The general use of a loud speaker for a night game is the same as that for a Sunday game? A. That's right.

Q. If there is a double header at night, what time does the double header start? A. They start about five o'clock, the crowd starts to congregate. The game starts I think at six.

Q. How late does a single game go on? A. A single game goes on generally, I believe, until quarter after eleven.

Q. And by the time the crowd leaves, what time is it? A. It is generally very close to twelve o'clock.

Q. Do the lights stay on in the Stadium and on the parking lot until the crowd leaves? A. Yes, sir; until the crowd disperses.

Q. What time is it usually when they put the lights out? A. The lights go out probably within fifteen minutes after the game is over, but the parking lot lights still remain there until the crowd is practically gone.

Q. I would like you to explain that a little bit to Judge Mason. Is part of the battery of these lights focused on the parking lot as distinguished from those focused on the playing field? A. No, they are arc lights on telegraph poles.

(The Court) They are like they have on streets, aren't they?

(The Witness) No, sir. They are larger than that. they are focused down—

(The Court) Well, I mean they are the new type lights.

(The Witness) Yes.

(The Court) Like they have on Belvedere Avenue, aren't they, where the light tends to focus down?

(The Witness) Yes, sir. These have a shade over top of it.

Q. Are they on poles different from the poles that hold the batteries of lights? A. Oh, yes, sir.

Q. Where are they located in the Stadium, up on the parapet of the Stadium or down on the ground? A. They are down on the ground parking lot.

Q. In other words, they are in addition to the usual and regular lights that are used for the playing of these games? A. That's right.

Q. What time do those lights go out? A. They don't generally go out until—well, generally there is always a half dozen cars that will be left there for maybe an hour or two after the game is over, but those lights will go out probably within thirty minutes after the game is over.

Q. What time is it before these hawkers and people who sell soft drinks, and so forth, are cleared out of the Stadium? A. I would say to the end of the game it is practically overwith. There is a mad rush to get out of the Stadium. Most people, you would think the Stadium was on fire on something the way they drive down past my house.

• • • • •

(Tr. pp. 449-454):

Q. What have you observed with respect to the traffic problem since July of 1944? A. Well, in the baseball season, I am unable to park my own car in front of my door, nor am I allowed to have anybody else parked in front of my door.

Q. Why is that? A. Well, we have non-parking signs put up on the days of the game by the Police Department on motorcycles and they have a lamppost at the corner and they put the sign up "no parking", and if there is a double header at night there is no parking after five o'clock. If it is a single game, it might be started after

six o'clock. So that it is impossible for me to have anybody come to see me in an automobile.

Q. Has there been any increase in bus traffic? A. Yes, sir. On the opposite side of Ednor Road, adjacent to the parking lot, the Baltimore Transit Company parks buses there for the full length of Ednor Road, and that is just one right against the other. Before the game is over, at least thirty minutes before the game is over, these buses are started up and the fumes from those buses are really terrific.

Q. Are they some of these so-called new and improved Diesel buses? A. Yes, sir.

Q. How many of those are parked there, would you say? A. Twenty to twenty-five.

Q. And they are parked there full time in the evening? A. Yes, sir, they are.

Q. What is the reason for starting them up thirty minutes before the ball game is over? A. I made it my business to go over there one night and ask one of the chauffeurs just what the reason was they all started up if the crowd wasn't coming out; if it was only a few minutes prior to that and these buses would, every one, start going. He said they had to do that in order to open the doors. It builds up the air pressure for the opening and closing of their doors on these buses.

(The Court) Did you accept that?

(The Witness) Well, I had to accept it; yes, sir.

Q. You are not an engineer, are you? A. No, sir.

Q. How often does that situation occur? A. That occurs every time the Orioles play there.

Q. They have their buses in the same place? A. Yes, sir, they do.

Q. Whether it is at night or on Sunday? A. That's right.

Q. In other words, they let the buses stay there until the game is over? A. That's right.

Q. Will you tell us where that is again, the location? A. That is on Ednor Road north of 33rd Street to practically 36th Street, three blocks. I have made a count of them many an evening and there would be twenty to twenty-five buses.

Q. How do these lights affect the use of your home? A. On the west side I have to, in the summertime, keep the shutters shut. We keep the blinds down and in that way I am able to open the window and get a little air in. It is practically daylight from the lights. I can read a paper in my dining room or in my kitchen. This is on the west side of the house.

Q. Those lights light up the whole neighborhood in addition to your house? A. They certainly do. You can pick a coin off the pavement, it's that bright.

Q. Mr. Gundersdorf, you told us about the buses being parked there alongside of your property for a distance of about three city blocks. I want to ask you what, if any effect, that has on your use and enjoyment of your home? A. Well, the buses are parked there for the ball games and likewise they are parked there for the football games. In the football season one has their windows closed and their back door closed and the fumes don't worry you if you are inside the house. But in the summertime, in the ball season, these buses are parked every time there is a ball game over there, and my garage is built adjacent to the house, which forms an L in the back and the driveway is from there on out to the alley. These fumes just seem to get in this L there in the summer time, so that I cannot even keep my back door open, and if there is low humidity or low ceiling, you might say, it just remains in that area around there for about an hour after they get away.

## CROSS-EXAMINATION

By Mr. Ghingher:

\* \* \* \* \*

(Tr. pp. 458-459):

Q. How much did your house cost you at the time you moved into the area at the time you purchased it? A. \$11,500.

Q. That was in 1936 in fee? A. November.

Q. Would you care to place any value on your property now? A. No, sir, I would not.

Q. Have you had any offers for it? A. No, sir, I have not.

## CROSS-EXAMINATION

By Mr. Robert Bartlett:

Q. Mr. Gundersdorf, about these vendors and hot dog stands, where do they come from? A. They are on the inside perimeter of the east Stadium, I will put it that way, where the booths are. Then we have one man particularly that sells hot dogs, ice cream cones, who sometimes parks on the parking lot and then again he parks across the street at the Eastern High School; then I have seen him on the side of Mr. Green's house.

\* \* \* \* \*

(Tr. pp. 459-460):

(The Court) Don't they sell the hot dogs and things in the Stadium?

(The Witness) Yes, sir, but they are prepared on the outside of the Stadium. I mean by that at the end of the parking lot, on the outside of the Stadium. My view, as the view of any one of my west windows, is right directly in front of me.

Q. Are you referring to the street hawkers?

\* \* \* \* \*

(Tr. pp. 460-461):

A. No, sir. They are the hot dog stands where they are prepared for sale, I presume, inside the Stadium, but the activity of this preparedness is done outside the Stadium, such as the soft drinks and pops, and things.

Q. Is that inside the fence? A. I guess it would be inside the fence.

Q. That is just at the foot of the Stadium, at the embankment? A. Yes, sir.

Q. These men you were talking about just before recess I understood were the street hawkers going around in a cart or truck and selling hot dogs and soft drinks? A. Peanuts, and so forth, things like that.

Q. It is not your understanding that the Baltimore Orioles or the Park Board have anything to do with those people, is it? A. No, sir, it is not, but they are only there on account of the ball game.

\* \* \* \* \*

(Tr. pp. 462-465):

GEORGE V. FREDERICKSON,  
1210 East 36th Street

#### DIRECT EXAMINATION

By Mr. Driver:

Q. Mr. Frederickson, when did you buy your home?

A. I bought it early in 1937 and occupied it about April 1st of that year.

Q. What is your business or occupation? A. I am district representative for the Weyerhaeuser Sales Company.

Q. Are you connected with the Ednor Gardens Improvement Association? A. I am.

Q. What, if any, office do you hold? A. Office of secretary.

Q. Mr. Frederickson, I don't want to have you go into a lot of repetition about matters that we have already heard about, except to ask you whether or not your observations with respect to noise and dust and lights and rowdyism are substantially the same as those testified to by prior witnesses? A. That is so.

Q. Can you hear this loud speaker at your home? A. Very much so, Mr. Driver, to the extent very frankly that I am quite proud of my home and we have a number of friends scattered throughout the City, and we found very shortly after the Orioles came there that it was no longer a pleasure to have those friends of ours visit us at the times of the baseball games at nights or on Sundays.

Q. Why Not? A. Because of the noise from the loud speaker, and their inability to park around my home.

Q. How about Sunday afternoons, do you agree with the observations already made? As one of the witnesses said, that there is a carnival atmosphere going on in that area? A. Very much so.

Q. Does that bother you in the use of your home? A. To a certain degree it prevented the use of my home in that we would rather establish the practice, in so far as we possibly could, of leaving our home when Sunday afternoon games were in progress.

Q. What is the difference between the use of the Stadium since 1944, when the Orioles came in, and the use of it prior to that time? A. When I purchased my home I knew what the Stadium had been used for, roughly for a number of years previous to that from 1930 to 1937, because I am quite a football fiend. I love it very much. I am also a baseball fan. I attended many affairs at the Stadium prior to 1937. All of them being football games in the fall of the year. My business brought me into that neighborhood and because I knew of the new Eastern High School that was being built



or going to be built out there, in that I had children who were about ready to go into high school, I looked the neighborhood over closely and investigated the zoning restrictions. I found that it was ideally located in conjunction with my work, which took me to various dealers throughout the City of Baltimore. So I moved there fully expecting that conditions in the Stadium, which were, as I understood it, under the Park Board, that those conditions would continue in the future as they had in the past.

Q. Did you have any complaints about the use of the Stadium prior to the Orioles coming in there? A. I couldn't have made any complaints because I knew and expected that civic affairs, collegiate and high school football would continue in the Stadium.

\* \* \* \* \*

(Tr. p. 466):

Q. Just answer the question. How many members have you? A. The last membership file consisted of 111 members.

\* \* \* \* \*

(Tr. pp. 467-468):

Q. Mr. Frederickson, with respect to the noise or lights or dust or rowdyism in the use of the Stadium, have you anything in addition to that?

(Mr. Biddison) We object to that.

(The Court) No. I think that is probably the best way to get it. There is no use of each witness corroborating what the other witness has said. If he knows anything in addition to what has been said that is relevant to what we are discussing here, now is the time to say it.

\* \* \* \* \*

(Tr. p. 468):

A. At an exhibition baseball game in 1946 I witnessed from my home the carrying of armloads of blossoms from the cherry trees down 36th Street by men, women

and children. I also witnessed inside the Stadium last year at night a fire break out in the bleachers. I was in the bleachers.

\* \* \* \* \*

(Tr. p. 468):

### CROSS-EXAMINATION

By Mr. Harlan:

\* \* \* \* \*

(Tr. pp. 469-470):

Q. What did you pay for your house? A. If I remember rightly, it was \$11,700 in fee.

Q. What is it worth now, do you know? A. In the opinion of the Appeal Tax Court of the City of Baltimore, it must not be worth any more than I paid for it.

Q. What is it worth, in your opinion?

(Tr. p. 470):

A. I have no value on it. It is my home.

\* \* \* \* \*

(Tr. pp. 474-475):

Q. So that after it is about quarter after nine at night the loud speaker is not used very often, is it, or half past nine? A. After half past nine I would say it is probably used not very frequently.

Q. Do you want this Court to understand that that loud speaker interferes with your talking with friends who come there of an evening, to any degree? A. Indeed I do.

\* \* \* \* \*

(Tr. pp. 479-480):

ALFRED W. KABERNAGLE,  
3610 Rexmere Road

DIRECT EXAMINATION

By Mr. Driver:

Q. Commander, what is your business or occupation?

A. I am officer in charge of Marine Inspection in this district for the United States Coast Guard.

\* \* \* \* \*

(Tr. pp. 480-486):

Q. And you bought your home in May, I believe, 1942? A. Yes, sir; May, 1942.

Q. And you live at that address with whom? A. I live with my wife and five children.

Q. Without going into the details of this situation in an effort to expedite it, do you agree with the testimony of the prior witnesses with respect to the nuisances created by the noise and the parking and the lights and the dust and the rowdyism that goes on at the Baltimore Stadium when the Baltimore Orioles play their games there? A. I thoroughly agree with what has been said. I believe that they did not place enough emphasis on the parking proposition.

Q. What would you like to tell us about that? A. I would say that it has increased the hazard of fire and has denied the citizens that pay taxes the normal rights and benefits that they could expect from fire protection.

Q. Explain that in a little more detail. Why do you say that? A. The street I live on is quite narrow and they allow parking on both sides; unless the machines are right snug up against the curb, you could not get fire apparatus up there. If a fire started, I don't believe they could stop it on time on account of the congestion that is allowed in the street.

Q. How frequently is that, Commander? A. Well, it is every time they have a big affair at the Stadium, and that includes football as well as baseball and with quite some frequency during the dangerous part of the season, in the dry weather in summertime.

Q. Can you hear this loud speaker where you live? A. Yes, sir. I only live about three hundred feet from the north rim of the Stadium. I can hear the loud speaker very plainly, especially in summer time when we have to leave the windows down for normal ventilation.

Q. Does it disturb you in the use of your home or not? A. Yes, it disturbs us and it is very objectionable. It has stopped our ability to rest or our normal comfort has been interfered with. When we have company we can't talk in a normal manner in the front part of the house on account of the loud speaker. The events that are told about more or less become monotonous after a while, and it is quite nerve wracking by its very frequency. If you had it only once a week it would not be so bad, but it is the frequency that renders it highly objectionable. At least to me.

Q. Have you anything else to add to your own personal observation that we have not asked you about? A. The only thing I can think of is that the parking is so bad that you can't use your own automobile and get to and from your house at the time these games are going on. Neither could you have company there, and if you have some company that are a little bit feeble or old, like I do, I have a mother-in-law, and she could not park within four or five blocks from my house and had to walk the rest of the way which made it very objectionable. I could not get to the rear of my place when I was driving a car. I haven't driven it for the last year on account of a physical reason. Prior to that frequently the use of the car was blocked in, especially in a row house where I live, in the rear end.

Q. Did you have any complaints prior to the Orioles coming into the Stadium, Commander? A. Did I have some of these complaints, do you mean?

Q. Yes. A. Well, during the large football games there was parking all over the neighborhood, and it interfered, I believe, as it does now, but we were prepared for it. It did not bother us very much except when it came so frequently. If a big game was to occur on some day, well, we just did not have company that day. We didn't think much of that. But day after day it became a regular thing, night after night, and practically the whole of Sunday afternoons it became very objectionable.

#### CROSS-EXAMINATION

By Mr. Biddison:

Q. Commander, you stated you have the same objections as the other witnesses, as I understand it, and you have given a further expounding of your additional objections. Do you object to the lights where you live? A. Well, not very much. The only lights we get is reflection from across the street and don't interfere with us very much.

Q. So you really don't object to those lights? A. I don't object to the lights.

Q. Were you home all last summer? A. I was home after May. I was in the hospital for four months last year.

Q. You were home then after May? A. After May I think I came home.

Q. Did you know that in August whether or not the noise from the loud speaker had been diminished in volume and toned down from the degree and tone that it previously had had? A. Well, I noticed that there had been a reduction in tone, but it was still highly objec-

tionable to me. I was recuperating from a heart attack and was supposed to get a lot of rest, and I could not get it.

Q. But you did notice there had been a reduction in volume? A. Yes, sir, there had been a reduction.

Q. What did you pay for your house? A. I paid, I think it was \$4500, with the understanding that I had to pay for some repairs.

Q. Was that subject to a ground rent? A. That is without the ground.

Q. You paid without the ground \$4,500? A. Yes. I think I had to spend \$700 for repairs.

Q. \$4,500 plus \$700 for repairs? A. Yes.

Q. What ground rent is there on your house? A. \$96 a year.

Q. But you have no opinion as to the present value of your home? A. I think my home has materially increased in value due to inflationary reasons.

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(Tr. pp. 489-493):

WILLIAM D. GENTRY,  
1106 East 36th Street

DIRECT EXAMINATION

By Mr. Driver:

Q. You bought your house when, sir? A. In May of 1929.

Q. What is your business or occupation? A. Engineer.

Q. Employed by whom? A. Gas and Electric Company.

Q. Mr. Gentry, you are familiar with the lights in the Stadium? A. Yes, sir.

Q. Do you know the size and extent of them? A. Approximately. The load, lighting load in the Baltimore Stadium is approximately 450,000 watts. That is distributed among the towers, the flood lighting, and the exit lighting and the administration building lighting.

Q. How many batteries are there of these lights around the Stadium? A. There are six on the parapet, which are permanent, and two banks of temporary lights on the poles down on the surface.

Q. Tell the Court how many bulbs are there in each battery of lights? A. Well, the tower lights or the lights on the parapet wall, the end towers, have fewer lights than the center towers. There are 36,000, I think, watt lamps in the end towers and there are eight rows of six each, I think on the center towers. Of the approximately 460,000 watts of lighting, there would be distributed about the two baseball towers or the auxiliary towers about 120,000 watts, and I would assume, although there is no actual measurement of the individual towers, I would estimate that the administration building and exit lighting about 30,000 or 40,000 watts, and would leave approximately 300,000 watts for the towers on the parapet walls. They are, as I say, divided about 40,000 watts for the end towers and in the neighborhood of 55,000 or 60,000 watts for the center towers, although the actual lamp wattage is less than that, the record indicates that is approximately what it is. The input or the lamp output would depend on the voltage and rating of the lamps.

Q. What candle power does each of those lights have? A. Well, when you talk about candle power, there is spherical power, candle power or beam candle power—

Q. What do they have at the Stadium? A. That depends on just—they have both, as a matter of fact. For instance, I can give you an illustration. With the headlight on your automobile the spherical candle power is about 16 with the average headlight; but the beam power

is many, many times that. It is blinding when they throw it down and the spherical candle power is ten times the size it is rated. The spherical candle power I think—this is approximately because we cannot go into lamp manufacture, and so on, but on the order of 1500 candle power per lamp. If they are 1,000 watt lamps, and they are about that, so with 36 lamps you would have about 36,000 watt lamps. The beam candle power is ten times that probably, and that is the light that is beamed, that is directed, and that depends on the angle.

(Mr. Biddison) At this stage, I would like to get it if counsel will permit. What kind of an engineer are you?

(The Witness) I am an electrical engineer, not an illuminating engineer. I can testify as to the wattage of a light. But maybe someone else would be better qualified in illumination, but that is practically correct, I will assure you. The figures I gave you are approximately correct.

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(Tr. pp. 495-499):

Q. (By Mr. Driver) Mr. Gentry, you live 1106 East 36th Street. How far is that from the Stadium? A. Directly across the street. I guess my home is approximately one hundred feet from the rim of the Stadium.

Q. You live there with whom? A. My wife and at the present time four children. Up until last January, there were five children.

Q. How old are your children? A. They range in age from approximately four years to twenty-five years.

Q. Without going into the details of the situation there, you have heard some of the other witnesses testify, have you, about the lights and noise and dust and so forth? A. I have.

Q. Do you agree with what they have said? A. I do, and because of the closeness of our home to the Stadium,



the annoyance is probably greater in our case than many of those who testified. For instance, on the question of noise, I would say to us it is more objectionable than the loud speaker, although that is very objectionable, is the constant roar and rooting and yelling, and the use of noise makers, klaxons, cow bells and horns. That is a thing that there is no let up to. They roar when there is a strike, they roar when there is a ball, they roar when a man strikes out, or flies out. It is up and down continuously. That goes on from the time the first man goes up to bat until the last one is out, and because of the closeness to me, although the loud speaker is very objectionable, especially when they bring in the music and that sort of thing, but it is constant yelling, ringing of the cow bells. We have a youngster who will be four years old in May. Last summer—Mrs. Gentry has quite a family, of course, and the domestic situation has been very bad. As a matter of fact, we have been unable to give her very much assistance, and she has that child and all the household duties all day, and when it is time to put that child to bed in the evening, ordinarily he would go to sleep like the other children did, at seven o'clock. But there he is. He is put in his bed and we have to—last summer there were times when it was ten o'clock at night, after she had had him all day long and all the other household duties, to be annoyed until that time of the night, crying it wants a drink of water and wanting to get up, all that sort of thing. He does not do it when those lights and noise aren't there. He goes to sleep as the other children did before him. It just so happens that is the room for the youngster, that is the small room alongside of the big bedroom in front of the house, and the lights and noise keep that child from going to sleep.

Q. What have you observed, if anything, with regard to the use of your property or your neighbor's property outside as a lavatory? A. I have not seen the commission of the act, but I have seen evidence of nuisances

having been committed. When the Orioles first came in there, I think one of the first Sunday afternoons, I walked around the Stadium, and it wasn't on our property but between the games I saw people committing nuisances to the extent that our two little girls, who were then about eight and twelve years old, I had to forbid them to be around 36th Street at all from then on. Men came out between the games and whether or not the facilities were not there for them, they disposed themselves and did things before those little girls, if they were there, as children will be, and I had to forbid them at any time from then on going across there.

Q. What have you observed with reference to the use of profanity around your home on the occasion of these games? A. They do it at night after the game is over. We live directly across the street. They congregate on the pavement and use profane language, worse than profane language. If you speak to them you get a mouthful of abuse. They have taken the attitude recently and many times say, "You are one of those damn complaints." If I do suggest to them at 11:30 or 12 o'clock at night to move on, or for goodness sake to leave, you get a mouthful of abuse.

Q. How frequently does that occur? A. It happens every night practically that there is a ball game. They are in no hurry apparently to leave you, most of them. Our lawn in front, they sit on it, they stay there, they argue the game over, they pay off bets and use any kind of language they feel like. Many times we have had them even an hour after the game is over.

### CROSS-EXAMINATION

By Mr. Harlan:

\* \* \* \* \*

(Tr. pp. 507-509):

Q. What did you pay for your house, Mr. Gentry? A. \$10,950 in fee.

Q. What is it worth today? A. Incidentally that house had been built some few years prior and was badly in need of some repairs. I put about \$1,000 into it. So that I have always considered we have an investment of approximately \$12,000 in that home.

Q. And it is worth about \$12,000 today or that is your investment? A. That is what we have invested in it.

Q. What can you get for it today? A. I don't know.

Q. Do you have any idea? A. No. Only that one of the ladies here tells me that a house down the street very similar to ours sold for \$11,000. I don't know whether that is an indication or not.

Q. What number is that, do you know? A. Mine is 1106—

Q. 1114 would it be? A. The lady is here if I may ask her.

Q. No, that would not be good evidence. Do you know where 1114 is? A. Yes, approximately.

Q. It is about four or five houses from you, isn't it? A. Yes.

Q. Is that comparable to your property? A. Yes.

Q. Do you know what that sold for? A. No, sir, I do Not.

Q. If I tell you it sold for \$13,000 in 1946, would that help you give any estimate of the value of your house? A. Well, I suppose in 1946 property was scarcer than it is today. I don't know. But that would sort of check with what I understand a house in the next group sold for, which sold recently for approximately \$11,000. That is nothing compared with the inflated value of the market today.

• • • • •

(Tr. pp. 510-514):

CHARLES H. WHITBY  
1305 Windemere Avenue

DIRECT EXAMINATION

By Mr. Driver:

Q. When did you buy your home, Mr. Whitby? A. In June, 1938.

Q. And you live there with whom? A. I live there with my wife, my two school age children and my mother-in-law.

Q. How old are you children? A. Two girls, aged nine and seven.

Q. You are president of the Lakeside Zoning and Improvement Association, I believe? A. I am.

Q. And have been for how long? A. One year.

Q. By whom are you employed? A. By the Gas and Electric Company.

Q. In what capacity? A. As an engineer.

Q. What kind of an engineer? A. I am an electrical engineer by profession and I am classified in the company as an industrial engineering representative.

Q. You have been with the Gas Company how long? A. Since 1937.

Q. Mr. Whitby, without going into any more detail than is necessary, do you or not agree with the observations of the prior witnesses with respect to the lights and noises and parking and dust etc., that results at the Stadium when the Baltimore Orioles play their games there? A. I can very well believe all of the testimony I have heard so far and most of it I personally have witnessed many of those occasions. In other words, I myself, object to the lights because the lights shine right

on my pillow, when I try to sleep. I object to the noise because my children are in school during April, May and June, and they tell me they cannot go to sleep until after the ball game is over, and thereby, perhaps their school work may suffer the next day.

Q. Is there any factor which we have not asked about that you would like to tell us about with respect to any result of the use of the Stadium by the Baltimore Orioles? A. I don't wish to take up the Court's time to duplicate what has previously been said. I will try to be as specific as I can. In speaking about the noise, the noise starts quite a period before the game. It starts with noisy music played on loud speakers and one very energetic gentleman who sells score cards, and he solicits in a very loud voice apparently each person that comes in. This noise continues intermittently throughout the game. When the game is over, we go up against noise from traffic. My house is situated about half way between the hill—

Q. How far are you, Mr. Whitby, from the Stadium about? A. I am in the second block from the Stadium on Windemer Avenue. There are two blocks of Windemere Avenue leading from the Stadium down to the Alameda right on a hill, and that is somewhat of a concourse from the Stadium when the crowds leave. As the automobiles come down the Alameda on the way out, they come to a stop sign. Sometimes there is a traffic officer there to control traffic and sometimes not. However, the cars back up on this hill, so that any automobiles which have squeaky brakes, of course, we get the squeaks. Then, as a rule, there is a great deal of horn blowing when someone becomes impatient. If one person blows his horn, possibly a half dozen behind also blow their horns.

Q. What is the difference in the use of the Stadium since 1944, what is the difference between the present use and the use prior to that, from your point of view?

A. The principal difference is the difference between warm weather and cool weather and between frequency and infrequency. During the football season the weather is predominantly cool. Usually we want the windows down occasionally during September, there might be warm spells, but usually it isn't a hardship to put the windows down. With the windows closed we don't hear a great deal of noise from the outside. We do occasionally. We are aware of the loud speakers until after I put my storm windows on. They seem to cut it down pretty well. In the summer time, when baseball is played, it is a very difficult problem. It is a problem whether to leave the windows open, listening to the noise, and get the air, or whether to put the windows down and swelter. That is particularly bad when we come to the time we normally retire. If a ball game is still on, and it usually is, it is a matter of whether to put the windows up and let the lights come in on my pillow, or whether to close the window and close the blinds, and suffer in that way. It is a terrible dilemma and we have no solution for it.

Q. That goes on, does it, every time there is a game played there at night? A. That goes on every time there is a night game in the summer time or warm weather.

Q. How many people are represented by the Lakeside Zoning and Improvement Association? A. We have a membership of approximately 315.

Q. Do you appear individually and as president of that association?

\* \* \* \* \*

(Tr. pp. 515-517):

A. I appear as an individual, I am also authorized to appear in behalf of Lakeside Improvement Association.

(Mr. Biddison) They are not a party to the suit.

(Mr. Biddison) I object to the question and I will stand on the record as ruled on by the Court. I won't examine him on that.

### CROSS-EXAMINATION

By Mr. Biddison:

Q. Mr. Whitby, when did you acquire your home? A. In June, 1938.

Q. What did you pay for it? A. I paid \$6,250 and later acquired the ground of \$2,000.

Q. Am I correct in assuming from your testimony about the night use of the Stadium during the summer time by the Orioles that you really object to the night use of the Stadium during the summer by any large gathering of people for any purpose? A. If it were on a continuous basis. I will qualify that and say that the previous occupants had affairs there on the fourth of July. We had occasional charitable affairs which lasted one or two nights at a time. They were annoyances but not objections.

Q. You would be satisfied with three nights in the summer for the Stadium to be used and would be dissatisfied with any use other than that? A. For three nights a summer I would be willing to change whatever plans I had, go away, and come back when it was over.

Q. In other words, your position is that the Stadium should remain vacant and dark and quiet during all the summer months? A. During the summer evenings.

\* \* \* \* \*

(Tr. pp. 519-522):

MRS. HARRIETT W. HINZE,  
1300 Lakeside Avenue

DIRECT EXAMINATION

By Mr. Driver:

Q. Mrs. Hinze, you live at 1300 Lakeside Avenue with whom? A. With my husband.

Q. And you bought your house when? A. In August, 1937.

Q. And the 1300 block Lakeside Avenue is the second block east of the Stadium? A. That's correct.

Q. I don't want to go into all the details of the testimony with you except to ask you this: Do you adopt the testimony of other witnesses who have testified in this case with respect to the nuisances created by parking, noise, lights, dust and dirt, and the situation created by the buses parking near your home?

(The Court) Have you been here each day, Mrs. Hinze?

(The Witness) Yes, sir.

(The Court) You may answer.

A. Yes, Mr. Driver, all of those things.

Q. Did those things exist prior to July of 1944, when the Orioles moved in to the Stadium? A. No. We had some but not to the extent that is there now.

Q. What is the difference, Mrs. Hinze? A. Well, I would say the afternoon games, the college games and occasionally some other civic activity, but now it is repetition all the time.

Q. Is there any difference between the time of the year when the baseball games are played? A. Yes. There is quite a bit of difference inasmuch as in the



cooler weather you can close windows and you are not annoyed as much, but in the summer time you are at the mercy of the elements. You have to take it.

### CROSS-EXAMINATION

By Mr. Harlan:

Q. Mrs. Hinze, what did you pay for your home in 1937? A. \$8,750.

Q. Was that in fee? A. Yes.

Q. Does your house face north or south? A. It faces south.

Q. Faces south about two blocks from the Stadium?  
A. There is one block between my house and the Stadium area.

Q. That is, you are one block east of Ednor? A. That's right.

\* \* \* \* \*

(Tr. pp. 526-527):

Q. What time do you usually retire, Mrs. Hinze? A. About ten-thirty.

Q. What time do the lights usually go out? A. About 11:15 or 11:20 at times; sometimes a little earlier.

\* \* \* \* \*

(Tr. pp. 528-530):

REVEREND FRANK STEELMAN,  
640 East 33rd Street

### DIRECT EXAMINATION

By Mr. Driver:

Q. Doctor Steelman, you are the Pastor of the Waverly Methodist Church, are you not? A. Yes.

Q. Where is that church located? A. That church is located at the corner of East 33rd and Frisby.

Q. How far is the church from the western boundary of the Stadium? A. There are two squares intervening between our church and Ellerslie Avenue, which bounds the Stadium grounds.

Q. And your home is where with respect to the church? A. About 100 feet west of the church.

Q. The church occupies roughly what size of an area, the church building? A. The church building, I cannot remember entirely accurately, but I have paced it off. The overall outside measurements seem to be about 60 feet wide and about 120 feet long.

Q. Do you have a vacant lot alongside of the church? A. Yes.

Q. That is owned by the church? A. Yes.

Q. How many members are there of your church, Doctor Steelman?

(Mr. Kemp Bartlett) Objected to.

(The Court) What is the purpose of it?

(Mr. Driver) It is preliminary, sir.

(The Court) Overruled. Give you an exception.

A. 735 was the last count.

\* \* \* \* \*

(Tr. pp. 531-534):

Q. Doctor Steelman, how long have you been Pastor of the Waverly Methodist Church? A. It will be two years this coming June.

Q. I would like you to tell the Court in your own way, sir, what you have observed with respect to the question of debris on your property, your church property and your neighbors' property on the occasion of the use of the Stadium by the Baltimore Orioles? A. Do you wish me to confine myself to that particular question at this time?

Q. Yes, first as to the debris. A. It is almost unbelievable how many things people have to throw away as they walk down the street before and after these games.

Q. What have you observed? A. After every one of them I am engaged the next morning for some time clearing up the parsonage property in the collection of castaway newspapers, car tokens, food wrappings, thrown away food, beer bottles, whiskey bottles. I am expecting to be hauled down to Court some day to be punished for burning up so much trash out there.

Q. What have you observed with respect to the question of parking in and about your property and the church property on the occasion of the use of the Stadium by the Orioles? A. All that has been said here will apply directly to my location. There are some angles to it that are particularly my own—

Q. Tell us about them. A. —which are especially offensive. Everything that has been said here applies as to parking along the road, 33rd Street, during games the before and after. Where it affects me especially is on Sunday. I am a minister. I am quite in the habit of devoting Sunday afternoons to pastoral calling among the sick in my church in the homes and in hospitals, throughout the city. When we get out of our church in the morning, morning church service, there are signs on the trees, "No parking allowed". That means we have to keep our automobiles in the garage. After dinner is over and I want to get my car out of the garage to look after my custom of Sunday afternoon calling, the garages, the entrance to the garages are blocked off by the cars that are parked there. That has been my experience many, many times. One Sunday when Mrs. Steelman and I had an engagement over in Washington, we could not get our car out of our garage and we had to forego that engagement we had made.

Q. Now, doctor, with respect to the question of noise, I would like you to tell the Court in your own way what

you have observed in that respect? A. The noise is most objectionable. It comes at that time of the year when people like to have the normal use of their home and the use of the privileges which the open season of the year brings; to sit on our porches or find a spot in the cool of the evening on the lawn. There is no pleasure in that community. Normal conversation is almost impossible even at our distance, your Honor, on account of the noise.

Q. What noise is it you speak of that interferes with your normal conversation? A. Well, it is the noise that is due to the traffic congestion before and after the games. There is always more noise then. Tooting of automobile horns and policemen's whistles, all sorts of things; the yells of the crowd coming and going. Then after the game stops there is this constant overtone of noise there that just envelopes our whole community. Sitting on the lawn with my wife we often try to engage in conversation, but it is almost an impossible thing to carry on such a conversation.

Q. Can you hear the loud speaker where you live?  
A. Very distinctly, sir.

\* \* \* \* \*

(Tr. p. 535):

(Mr. Driver) I offer to prove by this witness that the Board of Trustees of the Waverly Methodist Church have adopted a resolution opposing the continued nuisance and noise occasioned by this situation and, furthermore, although they had planned to enlarge and construct an addition to the church on a vacant lot adjoining their property, they will not do so because of this situation believing that it will result in a substantial and has already resulted in a substantial depreciation of the church property.

(The Court) Same ruling. (Objection sustained.)

\* \* \* \* \*

(Tr. pp. 542-543):

CROSS-EXAMINATION

By Mr. Kemp Bartlett:

Q. Doctor Steelman, your complaint isn't against parking on 33rd Street, but against no parking on 33rd Street, isn't it? A. Well, I would be considerably advantaged, of course, if I had the privilege of parking my car in front of my own home, and because I am not allowed to do that I have to keep it in the garage, and then because of the violation of all parking rules by people who are free to park back there in that they park in front of the garages, I am considerably disadvantaged. So it works both ways.

Q. Your testimony about baseball games applies with equal force to other streets leading to the Stadium because the police put the same regulations up when there is a crowd there, don't they? A. Yes, that is true, but, of course, the increased frequency of the baseball games makes it more of a problem.

\* \* \* \* \*

(Tr. pp. 553-555):

DOCTOR Z. VANCE HOOPER,  
3534 Ellerslie Avenue

DIRECT EXAMINATION

By Mr. Driver:

Q. Doctor Hooper, how long have you lived at your present address? A. Since 1938.

Q. You have been in Court, have you not, during the past several days and you have heard the prior witness' testimony with respect to the lights and noise and dust and dirt, and so forth, that occurs when these Oriole games are played at the Stadium? A. Most of the time.

Q. Do you adopt that testimony as yours or do you wish to modify it or enlarge it or do you generally agree

with it? A. In general except the fact I have noticed that the lights over on the lake side. They don't affect me quite as much as they do on the lake side area, because I have noticed they are very much worse over on that side. They are bad on my side.

Q. You are a medical practitioner, doctor? A. That is right. I would like to say, Mr. Driver, that I object to the fact that the addition of the Orioles and other professional sports imposed on us, in addition to the normal civic affairs, has created a carnival atmosphere around the neighborhood. Now, this carnival atmosphere is also on Sundays and I might say, due to the Orioles about sixteen Sundays added to the Colt games of eight makes twenty-four. There are about thirty-five Sundays in the seven and one-half months, giving us about thirteen free Sundays out of thirty-seven. This carnival atmosphere we have not only at night but in addition on Sunday, even on Sunday where carnivals are not permitted. We don't like that Sunday atmosphere for so many Sundays in the summer.

#### CROSS-EXAMINATION

By Mr. Harlan:

\* \* \* \* \*

(Tr. p. 555):

Q. What did you pay for your property? A. \$5,250.

Q. In fee? A. That is the total.

Q. Including the ground? A. The ground.

Q. \$5,250? A. Yes, sir.

\* \* \* \* \*

(Tr. pp. 557-558):

Q. Doctor, you are against the use of the Stadium where somebody might make something, is that correct, for private profit? A. I certainly am.

Q. Why? A. It is, in my opinion, zoned residential and if any profitable—if any outfit is permitted to use the Stadium for private profit, there is no law to prevent any other organization using it 365 days and 365 nights out of the year unless the neighborhood protests it as a nuisance.

Q. Is it your main complaint, Doctor Hooper, that in your opinion the Stadium is being used for private profit, is that what your main complaint is about the use of the Stadium by the Orioles? A. No, it is not. My main complaint is that a nuisance exists since the advent of the Orioles. I might say it hurts my conscience to have to come up and seem to appear to be fighting a baseball outfit, even though I have to fight for the private and proper use of my own home.

Q. Doctor, is your office in your home? A. That is right.

\* \* \* \* \*

(Tr. pp. 558-559):

Q. If the use of the Stadium by the Orioles did not produce the inconveniences that have been testified to, would you still object to the Orioles being there? A. Yes.

#### CROSS-EXAMINATION

By Mr. Kemp Bartlett:

Q. Doctor, you bought your home on June 4th, 1938, and paid \$5,250 for it? A. That's right.

Q. And it is worth more today, isn't it? A. Probably so, I don't know.

\* \* \* \* \*

(Tr. pp. 563-564):

ROBERT GARRETT,  
4606 North Charles Street

DIRECT EXAMINATION

By Mr. Driver:

Q. Mr. Garrett, you are the Chairman of the Department of Recreation and Parks of the City of Baltimore, are you not? A. Yes, sir.

Q. How long have you been connected with the public parks system of the City? A. The public parks system only since about the end of July of last year. I was connected with recreation long before that, but not with the parks.

Q. You have been directly interested in athletics one way or another or recreation for any number of years, have you not? A. Yes.

\* \* \* \* \*

(Tr. p. 565):

Q. As chairman of the Department of Recreation and Parks, one of the parks that you administer is that area surrounding and including the Baltimore Stadium, is it not? A. Yes.

\* \* \* \* \*

(Tr. pp. 566-567):

Q. Are the funds with which your department operates the Stadium property along with the other parks in the city included within that appropriation? A. Yes, obviously except in so far as the earnings cover part of the expense.

Q. The Department of Recreation and Parks makes all agreements, contracts, concessions, licenses, etc., with anybody or any organization that has any business dealing or desire to use the Baltimore Stadium, does it not? A. Yes, I should say so.



Q. Do you know whether or not the Department of Recreation and Parks has a police department operating under its supervision and direction? A. It has.

Q. Does that police department patrol and look after the Stadium property?

\* \* \* \* \*

(Tr. p. 567):

A. Yes.

Q. That situation which I have just described, Mr. Garrett, namely, the control, maintenance, financing, contracting use, occupancy, etc., of the Baltimore Stadium, has been a function not only of the Department of Recreation and Parks but of the Board of Park Commissioners of Baltimore, which your board succeeded; isn't that so? A. Yes, that is true.

\* \* \* \* \*

(Tr. pp. 568-569):

Q. You also maintain, I believe, in addition to the area immediately surrounding the Stadium the balance of the original land acquisition known as Venable Park, do you not? A. I think there is an area to the south that the Department of Recreation and Parks still has jurisdiction over, but you must remember that a goodly part of Venable Park on the south of 33rd Street was taken over by the School Department and a school built there. As I recall, that was part of the original Venable Park.

Q. The balance of that land is maintained by the Park Board? A. I believe so.

Q. The Department of Recreation and Parks maintains the grounds surrounding the Baltimore Stadium and by that, I mean the parking area which is part of your Stadium property, is it not? A. I believe it is.

Q. And you are charged with the maintenance, patrolling, and general management of the property as well as

the land alongside the Stadium and the Stadium structure itself; is that not right? A. I believe so; yes.

\* \* \* \* \*

(Tr. p. 575):

Q. The Department of Recreation and Parks at that meeting passed a resolution, did they not, to the general effect that if the Orioles applied for the use of the Stadium for the 1948 season that the Department of Recreation and Parks expected to give such a contract, provided the general terms and conditions were agreeable to the Board? A. That is true; yes, sir.

\* \* \* \* \*

(Tr. pp. 577-578):

(The Court): I think you want to read whatever was done about the use of the Stadium by the Orioles on that day.

(The Witness) Then I will read this. This is headed "Hearing Stadium Protest Committee." "The Stadium Protest Committee was represented by Mr. Wilmer H. Driver, attorney, and Mr. Harry Y. Wright, Chairman. Mr. Driver presented apparent evidence that the Baltimore Baseball and Exhibition Company intends to use the Baltimore Stadium as its permanent home. He told the Board that the Stadium Protest Committee is prepared to litigate the question but do not wish to do so if the Orioles can be induced to move elsewhere or if the Board of Recreation and Parks does not intend to allow the Orioles further use of the Stadium. He stated that Mr. J. Kemp Bartlett, Jr., attorney for the Orioles, affirmed that the Orioles intend to ask the Board of Recreation and Parks for a renewal of contract for baseball at the Baltimore Stadium. Mr. Driver asked the Board if it would allow the Orioles to play in the Stadium for the year 1948, and likewise wanted to know the policy of the Board for future years concerning the Orioles. The Board did not declare itself as to the future but by majority vote agreed to allow the Baltimore Baseball

and Exhibition Company the use of the Baltimore Stadium for the 1948 baseball season, provided the Orioles make such a request and present a written agreement which is acceptable to the Board.

"Motion by Mr. Scrimger, seconded by Mr. Boone. Vote in favor of motion. Mr. Garrett, Mr. Scrimger, Mr. Hammerman, Mr. Boone, Mr. Marsheck. Vote against motion, Doctor Harris. Vote five to one."

• • • • •

(Tr. pp. 580-581):

#### CROSS-EXAMINATION

By Mr. Biddison:

Q. Mr. Garrett, Mr. Driver in one of his questions, in characterizing your duties with regard to the Stadium, designated it as a park and confined his questions solely to your power over parks. Actually the Board of Recreation and Parks has the following powers and duties, does it not? It has the power to establish, maintain, operate and control parks, dunes, squares, athletic and recreational facilities and activities for the people of Baltimore City and have charge and control of all such property and activities belonging to or conducted by the City. That is correct, is it not? A. Yes, sir.

• • • • •

(Tr. pp. 582-583):

PAUL J. WILKINSON,  
200 Title Building

#### DIRECT EXAMINATION

By Mr. Driver:

Q. Mr. Wilkinson, you are connected with the Title Guarantee and Trust Company of this City? A. I am. connected with the Title Guarantee Company, formerly Title Guarantee and Trust Company.

Q. And you have been for how long? A. Approximately twenty-five years.

Q. Are you an officer of that company? A. Vice President, in charge of the Title Department.

\* \* \* \* \*

(Tr. pp. 584-587):

Q. Mr. Wilkinson, have you examined the deeds by which the Mayor and City Council and/or the Park Board of Baltimore City acquired title to the property which is to the south of the Baltimore Stadium? A. We have.

Q. You heard Mr. Garrett's testimony as to the control and operation and maintenance, did you not? A. I did.

Q. And you have examined the deeds by which they acquired title? A. I have.

Q. Do you have an opinion as to whether or not title to that property—if that property has been dedicated and accepted for public use? Do you have an opinion on that? A. Well, I have the various deeds of the Mayor and City Council of Baltimore which recite that the purchases were made through the Board of Park Commissioners, then the title was conveyed to the Mayor and City Council of Baltimore. That was true in all cases except as to two small triangular parcels binding along Ellersile Avenue, which I don't think come under the actual Stadium property but comprise part of the parking lot. All of the other deeds of the property were acquired by the Mayor and City Council through the Board of Park Commissioners. You asked me if I have an opinion in reference to that. I have an opinion, yes, personal opinion.

Q. Do you have a professional opinion of it? A. I have a professional opinion that the acquisition by the Mayor and City Council of Baltimore through the Board of Park Commissioners would constitute a dedication of that property for park purposes. That is my opinion.

## CROSS-EXAMINATION

By Mr. Biddison:

Q. Mr. Wilkinson, actually this main tract of the Stadium which was acquired by deed of April 6th, 1908, recorded in S. C. L. 2416, folio 310, was a deed to the Mayor and City Council of Baltimore, wasn't it? A. That is correct.

Q. And there were no conditions in that deed, were there? A. No conditions of any kind. The only thing I just referred to, the recital says, "Whereas the Board of Park Commissioners of the City of Baltimore by virtue and in pursuance of the powers vested in them, have purchased from the party of the first part, for and on behalf of the parties of the second part, the property hereinafter described, at and for the sum of so much money."

Q. So actually there was a conveyance to the Mayor and City Council and the full recital says bought for the Board of Park Commissioners or bought for the Mayor and City Council of Baltimore? A. That is correct.

\* \* \* \* \*

(Tr. p. 588):

Q. The Hanlon case is the basis of your opinion, is it not? A. That together with the general theory if the Park Board acquires property, I would consider that it acquired it for park purposes.

\* \* \* \* \*

(Tr. pp. 588-590):

Q. Several different agencies in addition to the Park Board acquire title to property for the City of Baltimore, don't they? The comptroller's office acquires title to property for the City of Baltimore? A. I think that is true.

Q. The Water Department acquires title to property for the City of Baltimore, doesn't it? A. I think so.

Q. Are we to understand that a title acquired to property by the Comptroller's office for and on behalf of the City of Baltimore is dedicated to the use of the Comptroller's office? A. Well, I don't know that I would go quite as far as that.

Q. Wouldn't the same reasoning be applicable if you are sound in your first conclusion? A. No. I think there is a slight difference in the acquisition of property for park purposes than there would be for some other purpose.

Q. But this deed does not say it is for park purposes, does it? A. You are absolutely right. But I am merely relying on the statement it was purchased through the Park Commissioners, the Board of Park Commissioners. I am not setting this down as a general principle of law, I am giving you my opinion of it.

### CROSS-EXAMINATION

By Mr. Kemp Bartlett:

Q. Mr. Wilkinson, in forming your opinion, did you give any consideration to the uses to which that property has been put for more than twenty years, in forming your opinion as to what purpose it is now held for? A. Mr. Bartlett, I don't know and my memory does not go back to just what purposes the property was put to prior to the erection of the Stadium. I have heard of Venable Park since I was a youngster, but just what purpose Venable Park was used for before the Stadium was erected, I don't know. I don't know whether that was actually a park there before that or not.

\* \* \* \* \*



(Tr. pp. 593-598):

CROSS-EXAMINATION

By Mr. Cross:

Q. What do you mean by "park purposes"? You don't mean for picnic grounds or for a zoo? A. I don't really know what park purposes are. You have Druid Hill Park there with a boat lake and renting those boats, you have the Mansion House, I don't know, but I believe in which you have some lunch facilities there, or things of that kind. I don't know just what public purposes are. I think it means for the public generally, and I think that the land acquired was acquired for park purposes, and to that extent I think it would constitute a dedication of the property.

Q. Even though it is dedicated, it is subject to the provisions of the charter, is it not? A. I am not raising that question, I am not trying to pass on whether or not the Park Board has a right to lease it. What I am trying to say, I am just expressing my opinion in reference to the pure legal point of whether or not it was dedicated to public use.

Q. You don't care to go into the legality of leasing it at all, you just say dedicated to park use? A. That is right, dedicated for park use. If the Park Board has any right to do anything with reference to leasing it out, that is something I think that is apart from this question.

(The Court) Mr. Wilkinson, would you be willing to go this far, would you say that the distinction between park purposes, when you say park purposes you mean for use of recreational purposes as against business purposes, is that what you mean?

(The Witness) Yes.

(The Court) I am thinking about the distinction between some pieces of land like the City uses for recreation or park purposes as against a city pier or something of that sort on Pratt Street.

(The Witness) Yes, the whole theory—

(The Court) Is that what you mean?

(The Witness) Yes, I think that is the general idea. I think the whole theory of the public park system is for recreational or educational advantage to the public.

Q. But can you go that far unless you go into the charter, and you say you can't go into the charter, you are giving merely your opinion as to whether it is dedicated for park use, irrespective of what the definition of park use is. You are not defining recreational use and park use, are you? A. I am merely expressing my opinion on that, Mr. Cross.

Q. How can you express that without a knowledge of the charter provisions? I know it isn't so but you don't, and yet you have applied that theory. You know that as well as we do? A. I must say I don't know the entire rights of the public in a park. It is certainly subject to park board provisions and regulations and I can only reiterate what I said before; it is my opinion that the deed to the Mayor and City Council of Baltimore, as it was made by the Park Board, indicates to me that that was property for park purposes. What the park purposes are, I don't know.

Q. You stop there? A. Yes.

(The Court) I want to ask another question along the line I asked the other question. It is your theory in making that statement that no property that was ever purchased by the Park Board could ever be used for business? Or, to put it another way, that the Park Board could not purchase property to be used for business, is that your theory?

(The Witness) No, sir, that isn't my theory. I think the management of the Park should be in accordance with whatever the law is or the rights of the Park Board to conduct the park property or to manage the park



property. Now, I am not going so far as to say I don't think that the Park Board has the right to lease some part of that property for certain purposes, which might be beneficial to the public. I am not going to go into that because I don't feel qualified to answer that. I think that is the whole question involved in the case and I don't feel qualified to sit here and say what the decision on that should be.

### CROSS-EXAMINATION (Resumed)

By Mr. Biddison:

Q. I understand from your further cross-examination that one of the conditions or factors in arriving at your opinion was the fact that Park Board funds purchased this property. How do you know that Park Board funds were used to purchase this property? A. I heard Mr. Garrett testify to that extent.

Q. He did not know. A. My understanding from what he said was that it was purchased with Park Board funds—

Q. Let me take you further— A. Just let me complete my answer. The wording of the deed said: "Whereas the Board of Park Commissioners of the City of Baltimore, by virtue and in pursuance of powers vested in them, have purchased from the party of the first part for and on behalf of the parties of the second part the property hereinafter described at and for so much money."

Q. If you have an agent purchase property for you, Mr. Wilkinson, in the final analysis you pay the money don't you? A. Yes.

Q. In the final analysis, where does the Park Board get its money from? A. I don't know.

\* \* \* \* \*

(Tr. pp. 599-603):

### REDIRECT EXAMINATION

By Mr. Driver:

Q. Mr. Wilkinson, in addition to the recitals in the deeds, did you or not rely and consider in arriving at your opinion in this matter, the testimony of Mr. Robert Garrett as to the control, domination and use and power of the Park Board over this property since 1907 and subsequent years? A. I think that sort of substantiated my ideas, although I had the same ideas before I heard Mr. Garrett testify.

### RECROSS-EXAMINATION

By Mr. Cross:

Q. That does not go, though, to the question of what purpose or uses a park property could be put? A. Definitely not, Mr. Cross. I have no opinion on that whatever.

(The Court) One more question. Outside of the matters you have adverted to in the deed just a minute ago, do you find any other limitations in the deeds?

(The Witness) There are no limitations as indicated in the deed or conditions upon which the property shall be held, with one other slight exception. There was one deed, I think in two of the later deeds, which however don't include the property on which the Stadium is built, the wording of the deed states that the property therein conveyed has been purchased by the Board of Park Commissioners of Baltimore City to be used as part of the public park system of Baltimore City, under the ordinance of the City Council in the year 1922, and that same wording was used in a deed acquired in 1925, but merely refers to acting under the powers vested in them, the Board of Park Commissioners have purchased property herein conveyed to be used as part of the public park system of Baltimore City. No recital in the grant-

ing or habendum clause, however, placed any condition upon the whole.

### REDIRECT EXAMINATION

By Mr. Driver:

Q. Where is that land? A. One of the parcels is at the very north end of the property at 36th Street, along the south side of 36th Street, and it is possible that the southern end of that property may take in a part of the north end of the Stadium. I would have to have a survey to show that. The deed of May 24th, 1922, from Mary F. Jacobs, recorded in S. C. L. 3866, folio 165, binds along the south side of 36th Street and has a depth from the center of 36th Street, I would say, of approximately 270 feet.

Q. Well, that would be part of the Stadium proper, wouldn't it? A. It may take in the part of the north end of the property. I say that is a question of survey.

Q. It would certainly take in a portion—isn't all of the land south of 36th Street, between Ellerslie Avenue and Ednor Road, a portion of the Stadium? A. No; between Old Dengies Lane and Ednor Road.

Q. Isn't this land you are speaking of part of what was the park area around the horseshoe? A. Yes, it would be part of that and maybe take in part of the north end of the horseshoe.

Q. And it may be part of the north end of the horseshoe itself? A. Yes. The other deed that has that provision in it is Liber S. C. L. 4611, folio 219, which definitely is not the Stadium proper but part of the parking place at 36th Street and Ellerslie Avenue.

Q. But it is part of the property which is part of the parking lot, or part of the park area around the horseshoe itself? A. That is right. It would be part of the parking area.

Q. So that you do have those two very definite limitations? A. They were merely recitals of the purchase with no condition attached.

Q. It is merely your viewpoint as an expression of intention? A. That was one of the things I took into consideration.

#### RECROSS-EXAMINATION

By Mr. Harlan:

Q. That just means it becomes part of the Stadium, like the zoo in Druid Hill Park, or the strips in the middle of highways? A. That portion, I would think, would be a part of the park system.

(Mr. Cross) If they want to make it, but it does not run with the land.

(The Witness) No, no conditions at all.

Q. And they even put schools in it? A. They put schools in that particular area, both City College and Eastern High School.

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(Tr. p. 604-607):

GEORGE E. McGOWAN,  
768 East 36th Street

#### DIRECT EXAMINATION

By Mr. Driver:

Q. Mr. McGowan, without going into the details in your testimony with the exception of one point, have you been in Court the last several days or the last two or three days? A. I was in Court on Monday all day and all of this morning's session. I was not in Court on Tuesday and Wednesday.

Q. You heard some of the witnesses testify as to the noise and lights? A. I heard Mr. Wright's testimony,

I heard Mr. Green. I also heard the witnesses of this morning.

Q. Do you adopt the testimony that the other witnesses gave with respect to the nuisances created by the lights, dust, dirt, noise, etc., emanating from the Stadium on the occasion of its use by the Baltimore Orioles? A. Of those witnesses I have heard, I would testify to the same.

Q. There is one particular point I would like to direct your attention to and that is what, if any, observations you have made with respect to the use of the loud speaker on Sundays, and if so, at what times you have observed it? A. As I have observed it during the summer months, the loud speakers directly connected with the game start somewhere after noon while the crowd is gathering. However, before noon on Sundays I have observed on numerous occasions where testings have been made on the loud speaker, the normal testing, 1, 2, 3. That may be for a period or periods of thirty to forty-five seconds. But in the cases where the loud speakers are not adjusted properly, it may extend over a long period of time, sometimes as much as five minutes.

Q. Have you heard that prior to noon on Sunday? A. Prior to noon.

Q. Was that frequent or infrequent? A. I can almost say, I can't say exactly, but those Sundays that I have been home prior to noon, it is quite frequent in the summer. Generally in the winter time I am in church at that hour. But in the summer time—maybe I am a heathen in staying away from church but those Sundays I have been home and there was a ball game played for That Sunday, I have heard that testing.

Q. Let me ask you this in conclusion. You have had some experience in athletics yourself? A. I was a coach for Franklin High School and Boys Latin School, foot-

ball, baseball and basketball for a period of about twelve years.

Q. So that you have no objection to baseball or sports or the use of the Stadium for them? A. I love sports.

### CROSS-EXAMINATION

By Mr. Harlan:

Q. Where do you live, Mr. McGowan, with reference to the Stadium? A. I would say the distance from my house to the Stadium proper is somewhere in the neighborhood of approximately 200 yards. I am the second door from Ellerslie on the north side of 36th Street, west of Ellerslie.

\* \* \* \* \*

(Tr. p. 608):

Q. What did you pay for your property? A. I paid \$3,500 for my property subject to a \$78 ground rent.

Q. When did you move there? A. In July, 1939.

Q. Were the lights there then? A. The lights had been installed, I believe, in June, 1939 for the Shriner's Convention.

\* \* \* \* \*

(Tr. pp. 608-610):

Q. What direction does your house face? A. It faces south. However, there is nothing between my house and the Stadium because being so close to the corner, there are no other buildings between the Stadium and the Stadium lights.

Q. Do they bother you? A. I don't go to sleep in the summer time until after eleven o'clock because I have found it to be useless, when the Oriole games are on.

Q. What time did you go to bed when the Orioles were playing, say at Toronto? A. When I get tired between nine-thirty, perhaps, ten o'clock, or perhaps 11:30.

Q. What is the average bed time when the Orioles are away? A. That's a hard question to answer. I think a man's feelings determines his bed hours. That depends entirely upon my activities during the day.

Q. What do you do for a living? A. I am a Research Chemist for the Gas and Electric Company.

Q. Do you do any night work? A. I don't do any night work.

Q. What are your hours of work? A. My hours of work from 8:15 to 5.

Q. And you go to bed anywhere from 9 up to 11:30? A. 9:30 up to 11:30. However, when the games are on I generally stay up because I have found it useless, with the light shining on my bed, that it was useless to try to sleep.

\* \* \* \* \*

(Tr. pp. 615-616:)

(Mr. Driver) If your Honor please, we have offered some twenty odd witnesses, I have not actually counted them, but we are prepared to offer in total at this time 165 witnesses who would corroborate and substantiate the testimony of the witnesses who have already appeared, and we make an offer at this time to that effect and relate that offer to the blue marks on the plat which has already been offered in evidence, so that the witnesses which we now offer to produce may be related to that map; reserving to the complainants in this case the opportunity to put on rebuttal testimony or any other testimony that may come along, not necessarily as rebuttal but as surprise or something of that nature.

JAMES V. KELLY,  
4422 Pall Mall Road

DIRECT EXAMINATION

By Mr. Harlan:

Q. Mr. Kelly, I believe you were formerly the secretary of the Park Board; is that correct? A. That's right.

\* \* \* \* \*

(Tr. p. 617-618):

Q. So that you were secretary of the Board for a little over forty-five years? A. Yes.

Q. Were you secretary of the Park Board when the Baltimore Municipal Stadium was built? A. I was.

Q. Will you tell his Honor the condition of the ground prior to the building of the Stadium? A. The present site of the Stadium, there were no houses on it; it had been an old brick quarry and had been abandoned, and when it was bought by Major Venable for a park it was a hazard, because the boys skated on it in winter and one boy was drowned, and they were always in it swimming, and the Park Board considered it a good place for a dump and they had Larkins, the Street Cleaning Commissioner, use it for that purpose to fill it up with ashes, and for years it was being used that way. The general superintendent being concerned about keeping it level and having the grade stakes lived up to, which was something that was always done. There were no houses. If you stood on what is 33rd Street now looking north, you would see no houses at all in sight. I would say there were no houses from about where the Alameda comes in now to the York Road.

(The Court) Dinges Lane might have had some houses.

(The Witness) There might have been some old cottages on Dinges Lane. The Park Board selected the



site for Venable Park and in the report there is a panorama view, and if you get that report of the Board and that panorama, that will show exactly what it looked like.

\* \* \* \* \*

(Tr. p. 619):

Q. Mr. Kelly, I show you a picture published in The Baltimore American, sir, of April 14th, 1922, and ask you to tell the Court what that represents?

\* \* \* \* \*

(Tr. pp. 619-620):

A. It shows high ground, and my recollection of the conditions in April, 1922, is that it was a hollow space. That is the reason it was selected for the Stadium, where the hollow place is and over the hill, and not shown in the picture. I can see it is taken from the east side of the Venable Park area and I see one old building there in the rear which will not show from 33rd Street over that high ground.

(The Court) Could you identify it as the Stadium location?

(The Witness) Yes. I would say that is a picture of the Stadium location.

(The Court) As of 1922.

(The Witness) As of 1922.

(Photograph referred to offered and received in evidence as Defendant's Exhibit 1.)

\* \* \* \* \*

(Tr. pp. 621-623):

(Pictures referred to offered and received in evidence as Defendants' Exhibit 2.)

Q. I show you picture contained in The Baltimore Sunday Sun, December 3rd, 1922, and ask you what that depicts? A. I recognize that as the Stadium that existed at

the time of the Army-Marine game in 1922. I see the old construction building in front before we had a real Stadium building, and this type of land north that I remember so well when the Stadium site was selected.

(Mr. Cross) It is a cornfield, isn't it?

(The Witness) No, it wasn't a cornfield. It is grown up with scrub and little trees. They pulled the land around. In grading they shaped the old quarry hole into a Stadium and they dragged the land to build those embankments and sort of changed the general lay of the land in front; but in the rear it is just as I remember it.

Q. Does that show any houses in the immediate vicinity north of the Stadium? A. I don't see any.

Q. I show you over here a picture in The Baltimore News dated May 9th, 1922, and ask you what that depicts? A. This land is the cornerstone of the Stadium building, I think, but that seems to be too early. You have May 9th, 1922 there—

Q. That is before the Stadium was built, is it not? A. I would say that is the day they began to build it.

Q. To break ground. A. To break ground.

Q. I show you a picture containing the names of Courts, Theodore Mottu, Henry Perring, J. Cookman Boyd and Mayor Broening; is that correct? A. Mottu, Courts, Perring, Boyd and Mayor Broening, that's right.

Q. I call your attention to another picture and ask you what that depicts? A. That shows the Stadium shortly after its use in 1922, taken from the east side and showing there are no houses on the west side.

Q. I show you also another picture contained in the Baltimore Municipal Journal, issued December 8th, 1922, and ask you what that depicts? A. That is a duplicate of the first picture you showed me.

(Mr. Harlan) I would like to offer that in evidence.

(Photograph referred to offered and received in evidence as Defendants' Exhibit 3.)

\* \* \* \* \*

(Tr. pp. 624-625):

Q. Who built the Stadium, Mr. Kelly? A. I would say the Board of Park Commissioners.

Q. Who was Chairman of that Board at that time? A. J. Cookman Boyd.

Q. Why did the Board of Park Commissioners build the Stadium?

(Question objected to; objection overruled.)

A. I would say it was to supply a need of the recreation department, the Public Athletic League for contests between schools and recreation teams of all kinds.

Q. What money was used to build the Stadium? A. Park money.

(Mr. Driver) If he knows.

Q. If you know?

(The Court) Did you disburse the money?

(The Witness) Oh, no.

(The Court) All you would know would be what you had heard.

(The Witness) Of course, I prepared the vouchers and approved them and had them signed by the members of the Board, and they went to the Comptroller, who paid the bills. I disbursed the payroll money. A great part of the Stadium work was done by park workers on park payroll.

(The Court) I will sustain that objection.

Q. Mr. Kelly, after the Stadium was built, what was the first game played there? A. The game between the

Quantico Marines and an army team, not the Army-Navy, but a local army team.

\* \* \* \* \*

(Tr. p. 627):

Q. Prior to the placing of lights on the Stadium, how often was the Stadium used? A. You have a record of that, I don't recall. I know that it was used rather sparingly and was referred to as Boyd's Void. It was used of course principally in the fall months for football, with some summer use, on the Fourth of July, and I remember the Lindberg reception was held there, and there were some Centennial parades. If you look at the record of the use, you will be astonished at how much it was used, hit and miss.

\* \* \* \* \*

(Tr. pp. 628-630):

#### CROSS-EXAMINATION

By Mr. Driver:

Q. Mr. Kelly, the entire time the Stadium has been in existence down to the present time, it has been managed, controlled, operated, and all of the moneys expended on it have been expended by the Park Board and subsequently the Department of Recreation and Parks, has it not? A. That's right.

Q. The Department of Recreation and Parks maintains the police protection or control over a certain portion of it, do they not? A. Yes, they do.

Q. Prior to July of 1944, the Park Board maintained the park area around the Baltimore Stadium, did they not, and they still do to a certain extent, don't they? A. Well, they did plant some evergreens along the 33rd Street front and some trees around the north end to try to shield or hide the elevated seats, but the greater part of the area was never a park by being sown to grass seed or anything of that kind, it was too much used during

the beginning in the fall of the year for football games and considerable parking was done there and, of course, you could not do much with it, and it became a sandy waste and when the winds blew, the neighbors complained that the dust was all over their porches.

Q. And you say that has been so ever since the Stadium was built? A. I would have to say so.

Q. Do you say that the Department of Parks has not had grass on those grass plots, and has not cut that grass summer after summer? A. If they had, I didn't know about it.

\* \* \* \* \*

(Tr. p. 631):

Q. You would not really remember whether there was grass there or not, would you? A. I would not swear whether there was grass or not grass, but my recollection is that it was mostly not grass because it was a difficult place to grow grass.

Q. Do you remember that Mr. Gallagher planted a group of Japanese cherry trees along the southern boundary along 36th Street as a memorial to one of the members of his family? A. I recall a memorial out there on the north side of the Stadium, and now that you mention it, I think he did plant some trees along the north line of the Stadium.

Q. Let me ask you this. Do you recall in 1946 or 1947 the Department of Recreation and Parks using a sprinkler system out there to allay the dust, then putting out some kind of calcium chloride deposit to allay the dust?

\* \* \* \* \*

(Tr. p. 632):

A. I recall that the place was sprinkled with water in 1946, prior to my going, and I know that they talked about treating it with oil or with other chemicals to keep down the dust.

\* \* \* \* \*

(Tr. pp. 632-633):

Q. But the first time you recall any concentrated effort to control this dust was in 1946? A. No. I recall efforts before that to control the dust quite a ways back. That was one of the early complaints of the neighborhood about the dust.

\* \* \* \* \*

(Tr. pp. 634-636):

Q. Venable Park was maintained as a park for many years, where the present site of the City College and Eastern High School now is, was it not? A. The south side of 33rd Street where the City College now is, was at one time maintained as a park.

Q. It was called what? A. Called Venable Park.

Q. And it still is called Venable Park? A. Well, the whole place was called Venable Park. Venable Park was purchased during Major Venable's presidency of the Park Board and it was called Venable Park. I always thought of the Stadium being in Venable Park.

Q. At the time of the inception of the Stadium, at the time the Stadium was built, the City had acquired five or six tracts of land which they lumped together or maintained together, a portion of which became the site of the Baltimore Stadium and the balance of it was reserved to Venable Park and the present site of the Eastern High School and the Baltimore City College; isn't that correct? A. Well, all of the properties purchased in 1905 by Major Venable were purchased for a park, and 33rd Street was cut through it months later, and it was after 33rd Street was cut through that the thought of the Stadium came up and, as I said before, the conditions there were that of a park reservation which had not been touched for any purpose in the way of embellishment or improvement.

Q. Subsequent to the construction of the Stadium and prior to 1944, there was a number of baseball diamonds

in Venable Park, weren't there, maintained by the Park Board? A. That is true.

Q. They were used actively by the school children in the city? A. That's true.

Q. They were used, were they not, in conjunction with School No. 51 A. School No. 51 used them, but other schools in the neighborhood used them, but there was some squabble about it, I remember.

Q. That whole area was maintained and controlled and policed by the Park Board? A. That is true.

Q. By the whole area, I mean the Stadium area and Venable Park? A. The entire area, both north and south of 33rd Street, was maintained by the Park Board for such use as it could be used for in the way of athletics. You know, the building of the Stadium bankrupted the Park Board so that they had very little funds to do much work, and Venable Park was improved a little here and a little there as the boys demanded the ball diamonds. They did not go along and improve it in a major way.

\* \* \* \* \*

(Tr. p. 637):

Q. Do you know, as a fact, that the Shrine donated those lights, put them up and gave them to the City of Baltimore?

\* \* \* \* \*

(Tr. p. 637):

A. Not that I ever heard of. They cost \$150,000 of the taxpayers' money.

Q. And the Park Board paid for them? A. The Park Board paid for them and they did not have a nickel in the appropriation to do it with. They had a budget with no provision to do it.

\* \* \* \* \*

(Tr. pp. 645-646):

Q. Can you give me some information on this? I understand that prior to 1944 a number of the civic associations in the community used to meet in that large room in the Administration Building at the Stadium, and that subsequent to 1944 that has not been so, or if so, to a lesser extent. Can you tell us anything about that? A. Well, prior to 1944, not only did the improvement associations meet there but they had card parties and dances and all sorts of neighborhood gatherings, and except where it was a meeting of a civic association, there was a charge made, I think, for the night, and if you look at the record of the Stadium use, you will see there was quite a great deal of use made of it at that time, until the Orioles moved in, then of course that use stopped entirely.

\* \* \* \* \*

(Tr. pp. 649-650):

Q. Mr. Kelly, isn't it a fact that on two occasions the Stadium was used, in one instance, as I recall it, for midget auto races and on another occasion for some rodeo, and on both of those occasions weren't those uses stopped either voluntarily by the Park Board or involuntarily through Court action? A. I know that they were stopped. I would like to qualify that. May I qualify that? The automobile races were definitely stopped, the contract was rescinded in doing that. But the rodeo which was objected to died out. They did not come back. I think if the Tall Cedars had come back for another rodeo they might have gotten it.

\* \* \* \* \*

(Tr. pp. 650-652):

Q. Mr. Kelly, were you with the Park Board when some difference of opinion arose between Mr. Thomas and one of the representatives of the United States Naval Academy over the use and occupancy of the second floor of the Administration Building prior to a Navy game?



(Question objected to.)

A. Yes, I remember the occasion.

Q. Do you remember the occasion? A. I do.

(The Court) Objection overruled.

Q. Will you tell us what that occasion was? A. I don't remember the date, but it was probably the first football season subsequent to the Orioles coming in and the Orioles had not had any experience with the Navy's use of that banquet hall, and when the Navy arrived they sort of took it for granted they had a right to do as they pleased, and the Orioles raised a little objection and I heard, of course, it came over to the Park office, that there was an altercation of some kind verbally and it was as a result of that that the Park Board reserved to the Naval Academy or the Naval authorities the right to use the quarters occupied by the Orioles.

Q. On the occasion of their use— A. On the occasion of their football games when they had to entertain their guests.

Q. But except for the United States Naval Academy, nobody else can use that Oriole office but the Orioles, can they? A. Oh, they could if they get the Orioles' permission. I mean if they give cooperation.

\* \* \* \* \*

(Tr. pp. 652-653):

Q. Are you familiar with the toilet facilities provided by the Baltimore Stadium? A. I think there have been some improvements made since I saw them the last time.

Q. What were they the last time you saw them? A. The last time I saw them they were a disgrace to any city the size of Baltimore.

Q. When was that? A. I would say at one of the Navy games in 1943.

Q. Was that the last time you saw them? A. That is the last time I saw the toilets. I have been in the Stadium since but I never have had occasion to use the toilets.

Q. Did you know that the Park Board had installed an ordinary outdoor privy that had no plumbing facilities for discharging the sewage? A. I have seen those.

Q. Tell Judge Mason where they are located and how many of them there are. A. On the north in back of the elevated seats, on the north side they for some years have maintained simply an ordinary wooden privy. In the embankments there were some toilet facilities, crude toilet facilities entirely unlike the kind you would find in a hotel or in this building here.

\* \* \* \* \*

(Tr. pp. 653-654):

Q. The sewage was simply discharged in the ground, wasn't it? A. I don't know what became of the sewage.

Q. There was no pipe to pipe it into the City sanitary sewer, was there? A. I know they were crude, rough board shacks.

Q. Are any of those crude rough board shacks still in existence out there? A. I am not certain.

Q. Were they there in 1946, when you ceased to be connected with the Park Board? A. I didn't see them in 1946. The fact is, I did not see the toilets up until the time I spoke of in 1943, when I had occasion to use one of them, and I only knew the others were there by driving around and being there, and seeing the crowds going in and out of them.

Q. As secretary of the Park Board, did you receive any complaints from the neighbors in the community about odors emanating from those toilets? A. Well, of course, I received no personal complaints. The complaints came to the Park Board and were discussed and gone into

extensively at the meetings held by the Park Board with the neighborhood committees.

\* \* \* \* \*

(Tr. pp. 656-657):

# REDIRECT EXAMINATION

By Mr. Harlan:

Q. Mr. Kelly, I show you a picture contained in the scrap book of the Board of Park Commissioners and ask you if you recognize that? A. I think I do, but there is a better one than that, if you want to show it in its original condition. You see the workmen on there and you can see it under construction. This scrap book is July, 1922, and there must be one ahead of it. It was the morning after the Park Board decided on the site. It appeared in The Baltimore American. It was one of these pictures taken with a panorama camera that swing around. It was early in the spring ahead of this.

\* \* \* \* \*

(Tr. pp. 657-658):

(Photograph referred to offered and received in evidence as Defendants' Exhibit 4.)

Q. Mr. Kelly, just one point. Before the Stadium was built and after 33rd Street was put in, were there any ball diamonds to the north of 33rd Street, any baseball diamonds, or were they to the south of 33rd Street? A. That would be to the south of 33rd Street.

Q. You were present at the Park Board when the contract with the Baltimore Orioles was discussed, you were also secretary of the Board while the Orioles were in there the first year or so, were you not? A. I was.

Q. Did the Baltimore Orioles have the exclusive use of the Stadium?

\* \* \* \* \*

(Tr. pp. 659-660) :

A. I can answer that any uses that don't damage the ball diamond that the Orioles put in at their expense would be permitted. The Park Board retains the control of the Stadium. They never turned it over to the Orioles in its entirety of any use—I think there were running games or recreation department exercises held in there that did not damage the ball diamond in any way, and were permitted. I think apart from what the contract says, there were some other uses during the baseball occupancy.

\* \* \* \* \*

(Tr. p. 660) :

(The Court) Tell us again. Did anybody else use that place during the year you are talking about besides the Orioles?

\* \* \* \* \*

(Tr. pp. 660-661) :

(The Witness) There was some use, I don't know how much, but there was some slight use of the Stadium with limitations, as to the use of the baseball diamond. That is the infield. The outfield, of course, was open.

Q. They had Easter Sunrise Services there, didn't they? A. They did.

Q. They had the Fourth of July celebrations? A. They did.

Q. They had the Bugle Corps there, did they not? A. I believe they did.

(Mr. Kemp Bartlett) They had a prize fight there, too, didn't they?

(The Witness) Yes, they had a prize fight.

(The Court) Last year?

(The Witness) No, I think in 1945 or 1946, Judge.

\* \* \* \* \*

(Tr. p. 662):

Q. I direct your attention to the areas both to the east and to the west of the Stadium structure, and I understand from the very beginning they were used as parking lots? A. They were.

Q. And they were created and intended to be installed there for parking lots, were they not? A. I would say they were. In one of the early pictures you see Forest Park there in the very first game.

\* \* \* \* \*

(Tr. pp. 664-665):

Q. What, Mr. Kelly, can you tell us about the condition of the sod on those parking lots prior to June, 1944?

A. I don't recall that there was any grass to speak of on the frontal part of the lots. Around the edges of it they planted the evergreens and grass around the park, there was some green in evidence, but on all my visits to the Stadium, and I went in there and parked my own car, I did not park on grass. I don't ever recall parking on anything green.

Q. Tell us whether or not the neighbors complained about that situation prior to 1944? A. The minutes will show it. I am sure they did.

\* \* \* \* \*

(Tr. p. 665):

(Mr. Driver) Are you saying it is a fact that the neighbors did this or do you just think that the minutes will show they did?

(The Witness) It is my recollection that they complained and it would be verified by the minutes I think.

\* \* \* \* \*

(Tr. p. 665):

# RECROSS-EXAMINATION

By Mr. Driver:

\* \* \* \* \*

(Tr. pp. 668-669):

Q. I want to direct your attention to the use of the Stadium while the Orioles were there. As I understood your testimony, you said that others could use the Stadium provided it did not interfere with the Orioles. That is your testimony, isn't it? A. That is right. At least, they did use it whether they could or not.

\* \* \* \* \*

(Tr. pp. 669-670):

Q. It was turned over to the Orioles in its entirety on the occasions when it was used by the Orioles, wasn't it? A. Yes, on the day of games they had entire control.

Q. Weren't there times when the teams were practicing there on other occasions, when the Orioles wanted to use it, and in addition to regularly scheduled games? A. I would not know that. Possibly.

Q. There were some exhibition games staged there, I believe, prior to the regular season games, weren't there? A. Any game for which they charged admission gave them control of the entire enclosure, the gates and everything.

\* \* \* \* \*

(Tr. pp. 672-673):

COLONEL JOHN G. SHETTLE

Q. Your address? A. No. 18 Greenridge Road, Towson, 4, Maryland.

# DIRECT EXAMINATION

By Mr. Harlan:

\* \* \* \* \*

(Tr. p. 673):

Q. Where did you live prior to that, in the year of 1922.

A. In 1922 I lived at 953 Gorsuch Avenue, Baltimore, Maryland.

\* \* \* \* \*

(Tr. pp. 673-674):

Q. Where is that in regard to the Baltimore Municipal Stadium? A. That is approximately two blocks south of the Baltimore Stadium, opposite the church on Gorsuch Avenue.

\* \* \* \* \*

(Tr. p. 674):

Q. Will you describe to his Honor the condition of the land prior to the erection of the Baltimore Stadium?

\* \* \* \* \*

(Tr. pp. 674-675):

A. The present site of the Stadium on approximately 33rd Street, there was a thirty or forty foot bank dividing the present site of the Stadium and the Venable Park site. There was a point of approximately two acres on the site of the Stadium. The rest of the ground was rough; a lot of broken bricks, remains of the drying sheds, of machinery, and piles of miscellaneous dirt comprised the rest of the area now occupied by the Stadium.

Q. What was the land used for or the last use of the land prior to the building of the Stadium?

(Question objected to; objection overruled.)

A. There was no use, to my memory, of the land in any way only by children swimming in the lake.

Q. Was there an old brick yard there, Colonel? A. The brick yard was discontinued when I was a very small boy.

Q. Was the land ever used or improved for park purposes?

(Question objected to; objection overruled.)

A. No, sir.

\* \* \* \* \*

(Tr. p. 675):

(Mr. Driver) He means it was never improved.

Q. Prior to the building of the Stadium.

\* \* \* \* \*

(Tr. p. 688):

WILLIAM F. BROENING

DIRECT EXAMINATION

By Mr. Biddison:

Q. You were Mayor of the City of Baltimore at the time of the construction of the Stadium on this 33rd Street site, were you not? A. I was. That was in 1922 I think.

\* \* \* \* \*

(Tr. pp. 689-690):

Q. Did you have occasion to go to the 33rd Street site of the Stadium prior to the erection of the Stadium there, sir? A. I did.

Q. What condition did you find the property in before the erection of the Stadium, Mayor Broening?

(Question objected to; objection overruled.)

A. That was an undeveloped section at that time. It was an old brick yard and it was very broad and expansive and lent itself readily to what we had in mind for a stadium to seat at least 65,000 people.

Q. At that time was any use being made by the City at all of the property north of 33rd Street, upon which the Stadium was erected?

(Question objected to; objection overruled.)

A. It had been acquired by the Park Board for the purpose of a park on both sides of the street.



Q. Well, it had been so used.

(Question objected to; objection overruled.)

A. No.

Q. Your answer is what, sir? A. It was undeveloped.

Q. And it had been so used? A. It had.

Q. The section north of the Stadium? A. It had not been used for anything. It had not been developed at that time. It was proposed to do that.

\* \* \* \* \*

(Tr. pp. 691-692):

Q. For what purpose or purposes was the Stadium constructed at that time by the City administration, Mayor Broening?

(Question objected to.)

(The Court) Overruled. You were the Mayor at that time. What was it constructed for? A. For all purposes for which a Stadium could be used.

Q. Were there any limitations placed by your administration on its use, Mayor Broening?

Question objected to; objection overruled.)

A. There were not.

Q. From the inception and first operation of the Stadium, do you know whether or not the City shared in the proceeds from the various events that were held at the Stadium? A. At the first game played, which was between the Marines at Quantico, under the leadership of General Butler, and a team composed of players from the Third Corps Area under General Bailey, at that time the proceeds were divided into thirds; the city taking a third, the Marines taking a third, and the Third Corps Area taking a third. To the best of my recollection, the City netted about thirty some thousand dollars on the first game.

\* \* \* \* \*

(Tr. p. 693):

# CROSS-EXAMINATION

By Mr. Driver:

Q. Mayor Broening, the Stadium was built by the Park Board, was it not? A. Yes, sir.

Q. With Park Board's labor, was it not?

\* \* \* \* \*

(Tr. pp. 693-694):

A. I don't remember just how it was, but Mr. Boyd, who was president of the Park Board, took charge of the supervision of the construction at that time. The only thing I was interested in at that time was to get it completed by November of that year in order that we might have the game that has just been alluded to.

Q. From 1922 on, so far as you know, was this property maintained by the Park Board? A. I understood at the time that it was under their jurisdiction. When it was acquired, I don't know, but it originally had been bought when Major Venable was a member of the Park Board, and it was designated as Venable Park at the time.

\* \* \* \* \*

(Tr. p. 694):

Q. As far as you know, the property was considered one of the public parks of Baltimore City, was it not? A. As far as I know, it was intended to develop it as a public park.

\* \* \* \* \*

(Tr. p. 697):

Q. The land alongside of the bowl but bounded by Ellerslie Avenue and Ednor Road, was that laid out originally as a parking lot? A. I don't recall what was done about that. I can't recall details, that is a long while, but I do know that the idea was to develop the other side as a park and to use the other side in connection with the Stadium, so it would serve the purpose for which it was intended.

Q. But both of them were to be maintained and used together, were they not? A. No, I can't recall that. They were not to be used together.

Q. They were maintained by the same Park Board, weren't they? A. They were maintained under the jurisdiction of the Park Board.

Q. And they were under the jurisdiction of the Park Board because there was a park, weren't they? A. Well, because the Park Board had acquired it with Park funds.

\* \* \* \* \*

(Tr. p. 702):

### RECROSS-EXAMINATION

By Mr. Driver:

\* \* \* \* \*

(Tr. pp. 702-704):

Q. Mayor Broening, if you know, was there any ordinance or statute that authorized the construction of the Baltimore Stadium in 1922, other than the ordinary ordinance and Statute authorizing the Park Board to acquire property for park purposes?

(Mr. Kemp Bartlett) I object to it again, sir.

(The Court) Objection overruled.

A. I don't know.

Q. Do you know whether there was any special statute passed authorizing the construction of the Stadium on 33rd Street? A. I do not. I only know the broad powers possessed by the Park Board at the time permitted it and there was no objection.

Q. When the Stadium was constructed in 1922, as I understand it, the purpose or the need for that structure was for the playing of the so-called big football games during the fall months, and you also suggested it as a place for the playing of scholastic games, didn't you, high school games?

(Mr. Biddison) We object to that question.

(Objection overruled.)

A. The purpose was for all activities that could be played in the Stadium. It was to be used for the schools, of course, who have the right to play. In other words, to develop it and make it a great sport center so as to advertise Baltimore and bring people to the City.

Q. Did you put a baseball diamond in that Stadium in 1922? A. No, we did not put it there because at the time we were developing it for a football field.

Q. And you did not put a baseball diamond in there the spring following this fall use in 1922, did you? A. I don't think we did. I didn't in all my administrations.

Q. As a matter of fact, the Stadium was not laid out to play baseball, was it, if you know? A. Not originally.

\* \* \* \* \*

(Tr. pp. 705-707):

THEODORE MOTTU,  
3401 North Charles Street

# DIRECT EXAMINATION

By Mr. Ghingher:

Q. Mr. Mottu, have you ever been a member of the Board of Recreation and Parks or its predecessors, the Board of Park Commissioners? A. Yes, sir.

Q. When was your term of office? A. In 1919.

Q. And extended for how long? A. If I remember correctly, about six years.

Q. That would be from 1919 until about 1925; is that correct? A. About that, yes.

Q. Are there any other surviving members of that Board, to your knowledge? A. No, sir.

Q. Do you know when the Stadium was constructed? A. In 1922.

Q. I would like you to tell the Court what the condition of the site on which the Stadium is constructed was at that time? A. It was an old brick yard; very rough ground; a lot of holes in it, where the boys used to skate when it froze in the winter time and had ice on it.

\* \* \* \* \*

(The Court) What you really want to know, so far as his knowledge goes, what it was used for prior to 1922, isn't it?

(Tr. p. 708):

(The Witness) Yes, sir. It was undeveloped land.

Q. From your official knowledge, from the period 1919, at which time you went on the Park Board, until 1922, had that property ever been used for park purposes up until the time the Stadium was constructed?

(Question objected to; objection overruled.)

A. No, sir.

Q. Can you tell the Court why the 33rd Street site was selected for the erection of a Stadium?

(Question objected to; objection overruled.)

A. Because we thought it was the best site. We considered the Mount Royal reservoir site and decided that wasn't the best, and General Agnus suggested we try this Venable Park and we went over there and selected that site.

\* \* \* \* \*

(Tr. p. 709):

(The Court) What was it selected for by the Park Board? Overrule the objection and give you an exception.

(The Witness) For general public athletic events.

Q. Was there any restriction of any kind put on that use? A. No, sir.

\* \* \* \* \*

(Tr. pp. 711-712):

# CROSS-EXAMINATION

By Mr. Driver:

Q. Mr. Mottu, who were the other members of the Park Board in 1922? A. J. Cookman Boyd was president; General Agnus, Felix Agnus, Edward Hanlon; Sam Leibowitz and myself.

Q. You constituted what was then known as the Board of Park Commissioners of Baltimore City? A. Yes, sir.

Q. And you administered all of the parks in the City? A. Yes, sir.

Q. After the Stadium was built, you administered the Stadium property along with the other parks in the City, did you not? A. Yes, sir.

Q. You maintained it? A. Yes, sir.

Q. And you made whatever arrangements were necessary to be made to permit others to have use of it? A. Yes, sir.

Q. You exercised control of it? A. Absolutely.

\* \* \* \* \*

(Tr. p. 712):

Q. You drew no distinction in the operation of the Stadium property from the operation of any other public park property, did you? A. I did not quite catch it.

Q. You say you drew no distinction between the operation and maintenance of the Stadium property from the maintenance and operation of any other park property? A. None whatever.

\* \* \* \* \*

(Tr. p. 713):

Q. You were familiar with the operation of the Stadium from 1922 to 1925, is that right? A. Yes.

\* \* \* \* \*



(Tr. p. 713):

Q. From 1922 until the time of your retirement from the Park Board, did you observe a baseball diamond constructed in the Stadium?

\* \* \* \* \*

(Tr. pp. 713-714):

A. No.

Q. Did you participate in the plans for the drawing of the Stadium and the laying out of the playing field, and so forth? A. Very largely so.

Q. Was the playing field laid out or was the lay-out of the playing field constructed so that it would hold a baseball diamond?

\* \* \* \* \*

(Tr. p. 714):

A. Yes. It was not primarily built for a baseball diamond, if that is what you are trying to get me to say, but it was constructed so we could put a diamond into it; yes.

\* \* \* \* \*

(Tr. p. 716):

Q. What you laid out there was a football field, with a cinder track around the exterior of it, isn't that so?

A. Yes.

\* \* \* \* \*

(Tr. pp. 722-723):

Q. When you had to build this Stadium in 1922, you purposely picked out a piece of park property and the funds of the Park Board paid for it; isn't that so, Mr. Mottu? A. Yes, sir. That wasn't enough ground, we had to buy additional ground.

Q. And the Park Board bought the additional ground?  
A. That is right.

Q. And that ground was immediately south of 36th Street, wasn't it? A. I don't know whether it was south of 36th Street or not. I think it was in the rear of the present Stadium, if I remember correctly.

WINFIELD F. COURTS,  
3314 Spaulding Avenue

# DIRECT EXAMINATION

By Mr. Harlan:

\* \* \* \* \*

(Tr. p. 723):

Q. What was your position in 1922? A. Park Engineer.

Q. For Baltimore City? A. Yes, sir.

Q. As Park Engineer, did you have anything to do with the plans and preparation of the Baltimore Stadium? A. I did.

Q. And did you confer with the members of the Park Board and others in regard to the erection of the Stadium? A. Yes, sir.

Q. At the time you were building the Stadium, did the question of a baseball field come up? A. A baseball field was laid out on the original plan.

\* \* \* \* \*

(Tr. pp. 729-730):

# CROSS-EXAMINATION

By Mr. Driver:

Q. Mr. Courts, you were one of the engineers employed by the Park Board? A. I was the engineer there.

Q. You were the engineer? A. I was the Park Engineer at the time.

Q. And you supervised, did you, on behalf of the Park Board, the construction of the Stadium? A. I certainly did.

Q. You were paid by the Park Board? A. Yes, sir.



Q. And you spent your full time supervising and whatever other engineering duties you had in connection with the construction of that Stadium? A. Yes.

\* \* \* \* \*

(Tr. p. 737):

Q. Mr. Courts, are you familiar with the toilet facilities in the Stadium? A. I certainly am familiar with them.

Q. Can you tell the Court what toilet facilities the Baltimore Stadium has?

\* \* \* \* \*

(Tr. pp. 137-740):

(The Witness) I can't say a whole lot, but when we built it we put in five toilets and after that, I think it has been about four years ago, we put in eight more.

(The Court) Do you mean thirteen altogether?

(The Witness) Thirteen different units.

Q. These first five toilets that you put in, they were not connected with any sanitary sewer, were they? A. Oh, yes, they were all connected with a sanitary—that is the new ones we put in, and the ones we put in originally, but outside of that, I think there were temporary ones put in that they had to clean.

Q. How many of a temporary nature? A. I think about four.

Q. Where were they located? A. Around the top at the north end.

(The Court) How many did you say?

(The Witness) I think there were four, about sixteen feet long.

Q. Do you know whether they are still there? A. No. I think they were demolished. I know I demolished two or three myself when I was building the others.

Q. Are there any toilets on the outside of the Stadium now visible from 36th Street? A. Not on the outside, they are on the inside, and all with sanitary connections because we had to do it in connection with the City Code, and everything else.

Q. And there are no toilet buildings on the outside? A. Not on the outside.

Q. Are you sure of that? A. I am perfectly sure.

Q. You could not be wrong, could you? A. I could be wrong in a lot of things, but I don't know that there is a toilet on the outside of the Baltimore Stadium. I mean inside of the fence.

(Mr. Biddison) He means inside of the fence.

(The Witness) Right under the seats.

Q. Do you know there is a walkway outside of the Stadium that's immediately inside the fence? A. Yes, I know there is one outside of the Stadium and I know there is a road inside where we drove around.

Q. Well, those toilets are right now inside of the roadway, are they not? A. They are near the roadway but under the seats.

Q. Are they visible from 36th Street? A. Well, you can see them, yes, some of them—no, I don't think you can see them from 36th Street because the shrubbery obstructs them.

Q. Are those toilets connected with the sanitary sewer? A. Yes, sir; and they all have partitions as you go in front of them, so people cannot be seen as you go in them.

Q. You never did have the kind of toilet facilities where there was a sewer that discharged into the ground and allowed to remain there, did you? A. Not as I know of.

Q. Well, you would know, wouldn't you? A. I would know, yes.

Q. You are sure they never had that situation? A. Yes, but the toilets were cleaned out after playing a game. They had four of those.

Q. Did you see some of the personnel out there at the Stadium cleaning those toilet facilities? A. That is what they were supposed to do. I wasn't manager at the Stadium, I had nothing to do with that maintenance.

\* \* \* \* \*

(Tr. p. 741):

Q. So it is your testimony today that as of 1945, when you left as chief engineer of the Park Board, that all of the toilet facilities were connected with a sanitary sewer? A. Yes.

Q. And that no sewage is discharged in any other manner? A. I don't know of any. I never put any in.

\* \* \* \* \*

(Tr. pp. 745-746):

Q. Is it your testimony that the lights shone down on the playing field? A. Absolutely.

Q. And they did not spill outside of the Stadium at all? A. Very little. Some of them might, but very little. We had to put them down on the Stadium because of the floor of the Stadium. We had to have 18 candle power per square foot for playing football and 30 candle power per square foot for playing baseball.

Q. So that you had to have it brighter at night for playing baseball than you had to have it for playing football? A. Yes, but we had them all down. They were all canted down. You could turn them down or up either way.

\* \* \* \* \*

(Tr. pp. 761-762):

FRANK A. HANCOCK

DIRECT EXAMINATION

By Mr. Biddison:

Q. Colonel Hancock, you had what connection with the Baltimore Stadium? A. I was director of the Stadium from 1923 until I retired for age in 1945; twenty-two years and something.

Q. In your position as director, what were your duties with regard to obtaining different events at the Stadium?

\* \* \* \* \*

(Tr. pp. 763-767):

A. I managed the place, took care of it, kept it clean and in condition, and made agreements with the various teams or organizations that wanted to use it, and things of that kind.

Q. Was there any limitation on the type of team or event that you would stage there? A. I know of none. All events that were suitable for Stadium uses.

Q. I am directing your attention to the very earliest days of the Stadium. Did the Stadium house any professional athletic events? A. The first game played there was a football game between the Third Corps Area team and the Quantico Marines. The next week, a week from that—the first game was the 2nd of December, 1922. The week after that, Jim Thorpe's Canadian professional football team, I think one of the first professional football teams in the country, was brought here and played a semi-professional team gotten up here in Baltimore?

Q. So, then, the second game held in the Stadium was a game between professional football players? A. Yes, sir.

Q. Was that on a commercial basis for the City of Baltimore? A. Yes.

Q. Was the City paid for the use of the Stadium? A. Yes.

Q. With regard to the area immediately surrounding the outside of the Stadium, generally was that area used for parking from the original days of the Stadium up to the present time? A. Yes, sir. Venable Park, as the Park Board called it, when I went there was an area of 52 acres. It had the greatest amount of land, I think, on the south side of 33rd Street and it ran from Ellerslie Avenue down to Montebello and along the Gorsuch Avenue side was a row of houses, the yards of which came out in this area. On the plats there was a street marked out there called Carswell Street, which was never cut through. The north area ran from Ellerslie to Snowdown, as it was called then, up to 36th Street. That was 52 acres altogether. The idea was that when games were being played at the Stadium the side areas and even the south side would be used for parking areas.

Q. Were they so used? A. The curbs were cut, there were cuts made into the curbs so that they could easily drive in and park there.

Q. And did they drive in there and use that for parking uses from the earliest days of the Stadium? A. Yes, sir.

Q. When the streets were later put in around the Stadium, were they used for parking for people who attended athletic contests? A. What is that?

Q. Upon the other streets immediately surrounding the Stadium, were they then used for parking? A. When I went there 33rd Street had been paved for some time and had a grass space in the center. When the Stadium was built, I think the grass space in the center of 33rd was moved in front of the Stadium. In other words, the grass area in the center of 33rd was taken out from Ellerslie avenue down to Montebello, leaving the street there the full width. I remember then they paved some of those streets. Ellerslie Avenue, from Gorsuch up to 36th, was cut through while the Stadium was being built.

36th Street along the northern end was cut through while the Stadium was being built. Ednor Road, or Snowdown, as it was then called, was cut through while the Stadium was being built. They were paved and curbs put in but there were no sidewalks around the Stadium during those early days. The 33rd Street sidewalk was in but the concrete sidewalk for Ellerslie and around 36th Street and Ednor was put in later.

Q. After those streets were built, were they or not used by the crowd that attended the events at the Stadium for parking? A. Whenever there was an event at the Stadium there was parking on the side areas, the areas to the east and west, and if the crowd was big enough, enough cars they parked also on the south side.

Q. With regard to the ground immediately surrounding the Stadium, has that ever been a verdent green park or what has been the condition of it. A. It has never been completely covered with grass. The soil is very, very poor. Many portions of it are clay. You can't grow grass in it because it won't grow. When houses began to spring up around there, we used to get complaints about the areas not looking good and the Park Board had some plantations planted along 33rd Street and up Ellerslie Avenue to 34th and up Ednor to about Lakeside. There were patches of ground, possibly twenty feet by forty or twelve by forty, something like that. They were dug up, top soiled, and planted with shrubbery such as cedars and spruce and hemlocks, and along the Ellerslie Avenue side they planted some small trees in it, some Japanese cherry trees along that side.

Q. Are any of those shrubs and plants still there? A. I left most of them there.

Q. With regard to your general duties, as I understand you were to get different events for the Stadium? A. Yes, sir.

Q. Did you at any time during the administration of the Stadium stage any baseball games in the Stadium?

\* \* \* \* \*

(Tr. p. 768):

A. Yes, sir. He brought the Orioles over and they played the Washington Americans.

Q. Do you remember the date? A. 1927 or 1928. It was in the early part of the season. It was before the local baseball season started and when the Orioles were playing their exhibition games.

Q. Well, the schedule, to refresh your recollection, shows there was a baseball game, Orioles versus Washington Americans on April 9th, 1928. Would you say that is correct? A. Yes, sir. I would say that was the game.

\* \* \* \* \*

(Tr. p. 770):

Q. In the course of your later days at the Stadium, the Baltimore Orioles were there during your last several years, were they not? A. They came there in July, 1944, and I was there all during that season. I retired the first of June, 1945.

Q. During that time did the Orioles have the exclusive use of the Stadium or were other events staged there during the time the Orioles had their games?

\* \* \* \* \*

(Tr. pp. 771-772):

(The Court) It is a statement of fact. I think you ought to ask him how much they used it.

(Mr. Biddison) I will ask him that. I think it is the same thing. A. They were permitted to play their schedule, but those events we had picked there were not interfered with. In other words, it was prescribed that those very events were to be played there.

(The Court) You still have not told us how much that was. What does that mean?

(The Witness) Well, Fourth of July fire works celebration there. That was scheduled; the Bugle and Drum Corps contest around Labor Day. It seems to me there were a few other events that I can't recall just now that were held there.

(The Court) They started in pretty close to the Fourth of July, didn't they?

(The Witness) They started in inside of ten days after the Fourth of July.

(The Court) And when was the last game played there by them?

(The Witness) Sometime in September, middle of September I think.

(The Court) And during that time what percentage of the days would you say they used the Stadium?

(The Witness) They used it more than any other organization.

(The Court) Would you say eighty per cent of the time or seventy or sixty or ninety or what?

(The Witness) If I recollect the schedule, the baseball team plays 154 games. That would be 77 at home and 77 away. During that period there were six or seven or something like that, probably still left to be played. The outside events during the playing of those 77 games, there might be six or eight and the other would be baseball games.

(The Court) Do you mean to say 80% of the time the Stadium was occupied by the baseball teams?

(The Witness) Yes, sir.

\* \* \* \* \*

(Tr. pp. 773-774):

Q. General Hancock, you mentioned about 77 home games of the Orioles. A good many of those games are



played as double headers, are they not? A. Yes, sir, a good many double headers. That would not change the number games, played 77 games and the outside use was 10 games, 10/77 would be that use other than the baseball games.

### CROSS-EXAMINATION

By Mr. Driver:

\* \* \* \* \*

(Tr. p. 776-779):

Q. There was not any single organization that ever used the Stadium to the extent that the Baltimore Orioles have, was there? A. No.

Q. Either as to frequency or the nature of the use, is that correct? I mean the type of the use. A. That is true of frequency. I don't know what you mean by type of use. An athletic event is an athletic event, whether baseball, football, track meets or what. They are all athletic events, aren't they?

Q. You do not draw any distinction between commercial and non-commercial sports? A. I have a very indefinite opinion on that. My mind is very hazy, not very clear.

Q. You found it clear as manager of the Baltimore Stadium, didn't you? A. No, that question did not apply. If an organization came there and wanted to use the place, we talked over the use of it, whether they were commercial or otherwise.

Q. Were you there as manager of the Stadium when they started to have the midget auto races? A. I was.

Q. And you were there when they had those other instances like Lucky Teeter? A. Lucky Teeter stunt show and there were two other automobile stunt shows whose names I have forgotten.

Q. Weren't all of those events stopped either voluntarily by the parties themselves or involuntarily by an action of one of the Courts? A. The midget races were stopped. That is the only one I know that was stopped.

Q. It has not been the policy of the Baltimore Stadium and the persons connected with it until recently to lease it for the use of commercial sports, has it? A. We had prize fights there—

Q. I am asking you whether it was their policy, can you answer that? A. What was the question?

Q. Was it the policy of the Stadium, while you were the director of it, to lease its use for commercial sports? A. Do you mean by that we never leased it—

Q. I am asking you whether it was your policy? A. Well, if we came across something that wanted to play there we talked it over with the individual that applied. We had prize fights there; Squires and Lakin.

Q. Was that a charity affair? A. No. \* \* \*

\* \* \* \* \*

(Tr. p. 780):

Q. You, as director of the Stadium, know, as a matter of fact, do you not, Colonel Hancock, that the majority of the events which have occurred in the Baltimore Stadium from the day of its construction down to 1944, were mostly scholastic, collegiate, civic or religious events? A. They were not commercial.

\* \* \* \* \*

(Tr. p. 781):

Q. Well, the fact is that regardless of what you may have tried to accomplish along that line, the fact is that the Baltimore Stadium has been and had been consistently used for the type of events which I mentioned a few minutes ago? A. There had been more of them than commercial; yes, sir.

\* \* \* \* \*

(Tr. p. 820):

Q. The dust was pretty bad, wasn't it? A. At times pretty bad; yes, sir.

Q. It not only blew over the neighborhood but it got into the Stadium itself, didn't it? A. We can see clouds of it coming up over the Stadium. You can see dirt particles about thirty-five feet above the ground.

\* \* \* \* \*

(Tr. p. 824):

A. The lights are supposed to be turned down to the field. Each light is set at a different angle so that the rays go down and light the playing field evenly. Whatever their power is, that remains constant. You cannot make a light brighter or darker.

Q. Can you spot one of those lights? A. No. The reflector sends it out in a cone shape.

Q. Then you have no control over it. In other words, you cannot spot one of those lights, you cannot point one of those lights at a certain spot on the field, can you? A. You can point it down and to the right or left. They are pointed more toward the center. The lights on the center poles shine straight down and those on the other poles are turned a little bit more and more to get an even distribution of the light all over the entire playing field.

\* \* \* \* \*

(Tr. pp. 842-845):

# RECROSS-EXAMINATION

By Mr. Driver:

Q. There is one question I would like to ask you in connection with Mr. Harlan's examination. You stated that you made up the schedules for the Stadium and you made them up for 1944 and that the dates of the schedules are usually dates on your calendar which are usually open and you fill them in the order of first come first served; is that right? A. Generally that is true.

Q. Of course, with this Oriole contract in existence, that isn't so, is it? A. If the Orioles had a contract for the use of the place on certain dates, we cannot book events on those dates.

Q. So that in that sense the season is determined as to the date of the execution of the contract with the Orioles?

(Mr. Kemp Bartlett) I object to that. I think that is argumentative.

(The Court) Overrule the objection.

Q. The Oriole use and occupancy of the Stadium is fixed by contract between the Department of Recreation and Parks and the Ball Club, and you have nothing to do with that, have you? A. With that schedule, no.

Q. You take that as an accomplished fact and work around it, is that it? A. It is orders to me from the Park Board.

Q. So that whatever vacant dates you have in between that schedule you are permitted to fill, is that right? A. I can only fill the vacant dates, yes.

Q. (By Mr. Kemp Bartlett) That is the same way when the Park Board makes a contract with the Navy, they tell you what date they want, don't they?

(The Court) What I think they are trying to get at is this. Who gets first chance at it?

A. Generally the first one that comes, first come first served.

(The Court) That doesn't answer the question.

A. If we have a game this fall and when that game is over, they want a date next fall, we mark that date down so we won't get another team to come there.

(The Court) Well, let us be more specific. What dates, for instance, in 1945, did you have filled up by, let us say, Easter?

(The Witness) I think only the Navy dates, the fireworks display on the fourth of July, the Drum and Bugle Corps contests on Labor Day.

(The Court) Were you reserving any dates for the Orioles for the season of 1945?

(The Witness) I don't recall that.

(The Court) You don't recall that you were?

(The Witness) I don't recall whether we were or not. I don't remember the status of the Orioles during the winter of 1944-1945, whether they were coming back or not.

\* \* \* \* \*

(Tr. pp. 851-852):

JACOB W. SLAGLE

Valley Road, Owings Mills, Post Office

#### DIRECT EXAMINATION

By Mr. Harlan:

Q. Mr. Slagle, you were manager of the Stadium, were you not, succeeding General Hancock? A. Yes. I was there from May, 1946, to April, 1947, about eleven months.

\* \* \* \* \*

(Tr. p. 857):

#### CROSS-EXAMINATION

By Mr. Driver:

Q. Mr. Slagle, you were the director of the Baltimore Stadium from May, 1946 to April of 1947, is that correct, sir? A. Correct.

Q. By whom were you employed? A. By the Park Board.

\* \* \* \* \*

(Tr. pp. 857-858):

Q. Did you have occasion to observe the maintenance, control, policing, and so forth, of the Stadium while you were the director? Did the Park Board maintain, police it, and control it? A. The Park Board had police there, yes.

\* \* \* \* \*

(Tr. pp. 858-861):

Q. In September of 1946, did you have occasion to confer with any of the representatives of the high school football teams with respect to the use of the Stadium? A. As I recall, yes.

Q. Is it not a fact that you were unable to agree with them as to dates until it was determined that the Orioles would no longer need the Stadium, that is to say, there would be no playoff at the end of the season? A. The playoff schedule was in abeyance, we could not tell whether at the end of the ball season the Orioles would be in the playoff, and, if they were, what dates they would play in Baltimore and what the dates were.

Q. And with that situation existing, you were unable to make any definite arrangement with the school authorities for the use of the Stadium by the high schools? A. Other than the dates we knew would be open.

(The Court) In other words, you were holding certain dates to learn whether there would be a playoff? Whether a playoff would be necessary?

(The Witness) That is correct, and we discussed it with Mr. Armstrong and Mr. Thomas.

(The Court) Do you know what those dates were?

(The Witness) No, sir, I can't remember that.

Q. The next year, that is to say, in the early spring of 1947, January February and March—I believe you left in April? A. Right.

Q. Did you participate in the making of the Oriole schedule for the use of the Stadium or was that determined by the Park Board? A. I had no connection with the making of the Oriole schedule, as I recall.

Q. In other words, the schedule was made, then you were acquainted with it? A. That would be right.

(The Court) He was informed of it, wasn't he?

(Mr. Driver) I assume he was.

(The Court) It was made, then you were informed about it.

(The Witness) When the schedule came out I knew it. I didn't know what it was before.

Q. Except for the Oriole schedule, it was your duty to schedule events for the Stadium, I assume? A. I could not schedule anything. If someone applied for the use of the Stadium, I would take it up first with Mr. Maxwell, then it would be taken up with the Park Board.

Q. The reason I asked you that was I believe General Hancock testified the other day that one of his duties was to try to schedule games and events.

A. I was here at the time and I felt then that he was there longer and probably did go into that more than I did. If an application was made I would bring it to the Board.

Q. With respect to the baseball season of 1947 and the inability to schedule events for the Stadium for the high schools in the month of September, 1947, it was pretty much the same situation as you described in 1946, was it not? A. That situation only arose once with me.

\* \* \* \* \*



(Tr. p. 864):

Q. Did you notice the dirt and dust stirred up by that traffic? A. I saw what was there, yes.

Q. Was it pretty bad or not when you observed it? A. Well, it was dusty, yes. I would not like to make a statement that it was heavy dust or light dust. If it was dry weather, it was heavy; if not, it was not.

\* \* \* \* \*

(Tr. p. 867):

Q. You have walked around the Stadium area at night and you have had no difficulty in observing light all over the neighborhood, have you, from those Stadium lights? A. As I say, there is a glare from the lights. Certainly you can see the lights.

\* \* \* \* \*

(Tr. pp. 872-874):

#### RECROSS-EXAMINATION

By Mr. Driver:

Q. The point I was trying to develop that prior to, say, September 20th, which I believe is the first date you have referred to, you did have difficulty in working out a schedule with high school teams because you were unable to determine in advance just when the Oriole use would cease and for those games that were scheduled prior to September 20th, there was some difficulty about it, wasn't there? A. As I recall, and I am not sure of it, but as I recall, they were held up to the point of determining what date they could play until the Orioles knew whether they were in the playoffs.

---

(Tr. p. 874):

#### FRANK SHAUGHNESSY

Q. State your full name and address? A. Frank Shaughnessy; 535 Fifth Avenue, New York City.



## DIRECT EXAMINATION

By Mr. Cross:

Q. Mr. Shaughnessy, you are president of the International League of Professional Baseball Clubs. How long have you held that office? A. Elected in the fall of 1936.

\* \* \* \* \*

(Tr. p. 893):

## CROSS-EXAMINATION

By Mr. Driver:

Q. Have you ever noticed, Mr. Shaughnessy, whether these lights shine into the windows of the houses along Ellersile Avenue from Lakeside Avenue or Windemere Avenue? A. I don't know the names in use out there, Mr. Driver.

Q. They are the first streets generally east and west of the Stadium? A. I don't doubt but what there is an overlap of light out of the Stadium, there is bound to be, but I don't think there are any direct beams.

\* \* \* \* \*

(Tr. pp. 912-913):

GEORGE M. ARMOR,  
118 St. Dunstons Road

## DIRECT EXAMINATION

By Mr. Harlan:

Q. What is your occupation? A. Vice President, McCormick and Company.

Q. Were you ever a member of the Park Board, Mr. Armor, and, if so, when? A. I was appointed a member of the Park Board by former Mayor Broening in November, 1929. I remained a member of the Board until the year 1937. I was reappointed by Mayor Jackson in the year 1941, possibly 1942, and continued as a member until the summer of 1947.

Q. And you are not now a member of the new Board of Recreation and Parks? A. No, I am not.

\* \* \* \* \*

(Tr. p. 914):

Q. When the Stadium was used for athletic events or civic affairs, would the people participating or running such affairs get permission from the Park Board for the use of the Stadium? A. Yes, they would. It was necessary to do so in order to get a date.

\* \* \* \* \*

(Tr. p. 915):

Q. What kind of events were held in the Stadium, particularly that you recall, Mr. Armor? A. Up to the present time do you mean?

Q. Yes, sir. A. Football in the fall, particularly the Board of Education scheduled football games there. There was a number of religious organizations that used the Stadium from time to time. It was used for Easter Sunrise Service. On one occasion we had night opera in the Stadium several years ago. Outside of one or two games of baseball that were played in the Stadium years ago, there was no baseball played in the Stadium until the year 1944.

\* \* \* \* \*

(Tr. pp. 917-918):

Q. In your recollection did the Board ever turn down anyone requesting a legitimate use of the Stadium? A. Yes.

Q. When was that? A. We had a request, as I recall it, on one or two occasions for a certain so-called religious organization to use the Stadium and I think that was refused. We also had a request for the use of a baseball game in the Stadium by an independent organization. That was turned down due to the fact that the diamond was installed by the baseball team and we hadn't the right to allow the use of it.

\* \* \* \* \*

(Tr. pp. 918-920):

Q. You are familiar, Mr. Armor, with the looks and appearance of the Baltimore Stadium, are you not? A. Quite well.

Q. Will you tell his Honor briefly the description of the outside of the Stadium from 1929 on, with particular reference to the parking areas on the side? A. Well, we tried, of course, to do a lot of planning at the Stadium on all street sides, Ellerslie Avenue south side and north side, and some changes made on 36th Street, improving it and some trees removed. But we tried to maintain shrubbery to make a nice appearance around the place. We were never able to grow any grass because the boys in the neighborhood used it as a football field. There was very little grass on it at any time except on the borders of the streets.

Q. Was that used for a parking area when there were events at the Stadium? A. It was, yes.

Q. Was there any dust there prior to the Baltimore Orioles coming there? A. In dry weather I would say there was, yes.

### CROSS-EXAMINATION

By Mr. Driver:

Q. Mr. Armor, you administered the Stadium property along with the other units of the park system of Baltimore City, did you not, as a member of the Park Board? A. I did.

Q. The Board treated it as one of the parks of the city and maintained it and policed it? A. As a unit of the Park system; yes.

Q. Have you ever seen a map of the Park system of Baltimore City? A. Oh, yes.

\* \* \* \* \*

(Tr. p. 921):

Q. What is the date of this map? A. 1928.

Q. And the Baltimore Stadium is projected on this City map as a portion of Venable Park, is it not? A. That is correct.

Q. The word "Venable" appearing on the north side of 33rd Street, and the word "Park" appearing on the south side of 33rd Street, on the area projected on this map.

(Mr. Cross) Your Honor, that isn't disputed, by any party to the suit.

\* \* \* \* \*

(Tr. p. 922):

(Map referred to offered and received in evidence as Plaintiffs' Exhibit 30.)

Q. Mr. Armor, are you familiar with the so-called Olmstead report that was made to the City of Baltimore with respect to the parks and the proposed extension?

\* \* \* \* \*

(Tr. pp. 923-925):

(Mr. Driver) I merely want to show him a map and ask Mr. Armor if he has seen that map before and, if so, to tell us what it is?

(The Witness) This was issued in 1926, some years ago. I have seen the map before.

Q. It is a map contained within the Olmstead report submitted to the Mayor and City Council and the Park Board, and shows on the map the present parks and proposed parks or extensions of them, doesn't it?

(Mr. Cross) I object to it as being immaterial.

(The Court) What do you want to use it for?

(Mr. Driver) I want to show that the City itself, from the inception of this property down to the present, has

treated it as a park. If they can concede that, I won't have to go into it.

(The Court) As park property?

(Mr. Driver) Yes, sir.

(Mr. Harlan) We concede whatever the map says, "Present Park System".

(The Court) I will let you offer it for whatever it is worth. Objection overruled.

\* \* \* \* \*

(Map referred to offered and received in evidence as Plaintiffs' Exhibit 31.)

\* \* \* \* \*

CHARLES A. HOOK

\* \* \* \* \*

DIRECT EXAMINATION

By Mr. Ghingher:

Q. Mr. Hook, what is your present position? A. Superintendent of the Bureau of Parks.

Q. How long have you held that title? A. Since November 17th, 1947.

Q. And before that, Mr. Hook? A. I was district superintendent of the Clifton Division for seventeen years.

Q. In both those capacities, did your supervision extend to the Stadium? A. From April 1947 until the present time it does.

\* \* \* \* \*

(Tr. pp. 928-929):

Q. Mr. Hook, as you are probably aware there have been some complaints here of the dust in the parking areas during the ball season. I would like you to tell me from your own experience what, if anything, was done by the Park Board or its agents to combat whatever

condition had existed? A. We requested the highway department to make applications of calcium chloride at different intervals during the season.

Q. What effect does that have on the condition? A. Well, it dampens the soil for a period of time, for ten to fifteen days it will keep the soil dampened. We use it on tennis courts and other areas in the park system where we have had complaints of dust.

Q. From your observation in regard to the application of that chemical, did it alleviate the dust feature? A. Considerably.

\* \* \* \* \*

(Tr. pp. 930-931):

Q. Can you give me from your own observation an estimate of when the games are completed on the average? A. I think the average is about 10:30 or 10:40.

Q. Did you remain there after the games on most occasions? A. I remained until the office was closed and the lights were out.

Q. Can you give the Court an estimate as to when the lights were turned out after the game? A. Well, it would be between ten and fifteen minutes after the game was over.

Q. Which would make your estimate about what, from the standpoint of time? A. About ten minutes of eleven or five minutes of eleven, something like that.

Q. About what time were the lights turned on on the average, and I am now referring to the summer months? A. 1947 I understand you to mean?

Q. Yes, 1947. A. The lights were turned on about—

Q. Before answering that question, I might call to your attention the daylight saving factor. A. That is what I had in mind. About 7:45 the lights would be turned on.

\* \* \* \* \*

(Tr. pp. 934-935):

Q. Mr. Hook, you have already testified about the application of calcium chloride to the parking areas adjacent to the Stadium. I show you a letter dated May 6th, 1947 from William Fischer, Highways Engineer, addressed to Mr. R. Brooke Maxwell, and ask you if you have ever seen that letter before?

\* \* \* \* \*

(Tr. pp. 936-937):

Q. Will you read it to the Court? A. (Reading): Dear Mr. Maxwell: Your letter of the 25th requesting that we arrange to have calcium chloride applied to the parking areas of the Stadium, has our attention. We have made arrangements to perform this work in accordance with the stadium scheduling of the Baltimore Orioles, in the same manner as was done last year. Very truly yours, William H. Fischer, Highways Engineer."

(Letter above referred to offered and received in evidence as Defendants' Exhibit 6.)

Q. I also show you a letter, Mr. Hook, or memorandum, copy of a memorandum, signed by Mr. F. R. Jones, of the Clifton Division, directed to you, Mr. C. A. Hook, which I would like to offer in evidence, although it is a copy, Mr. Driver, in accordance with our stipulation.

(Mr. Driver) Yes.

(Paper referred to offered and received in evidence as Defendants' Exhibit 7.)

Q. Mr. Hook, have you seen this memorandum before or the original of it? A. Yes.

Q. Will you read it to the Court? A. It is a memorandum to Mr. C. A. Hook, from Mr. Frank R. Jones: "Subject: Calcium chloride. On the following dates the parking lots of the Stadium were treated with calcium chloride at the rate of one and one-half pounds per square yard or five tons per application. The days it

was applied, were May 7th, 1947; June 6th, 1947; July 3rd, 1947; July 24th, 1947; August 15th, 1947 October 10th, 1947. Signed Frank R. Jones, Clifton Division."

### CROSS-EXAMINATION

By Mr. Driver:

\* \* \* \* \*

(Tr. p. 940):

Q. The Park Board-City authorities have no control over that loud speaker, have they, that is a matter that is apparently controlled by the Oriole personnel; is that right?

\* \* \* \* \*

(Tr. p. 941):

A. Oh, yes, we have control over it. It belongs to us.

\* \* \* \* \*

(Tr. pp. 941-942):

Q. There is apparently a difference as to who operates it and who controls it. You tell us the Park Board owns it and the Orioles operate it, is that right? A. That's right.

Q. And that is so at every game? A. That's right.

Q. So that whenever anybody makes a complaint you have to consult the Orioles to have it turned down? A. We tell them to turn it down.

Q. You tell them and they do it? A. And they do it.

\* \* \* \* \*

(Tr. pp. 945-946):

THOMAS J. GUCKERT,  
2002 Prestview Road

### DIRECT EXAMINATION

By Mr. Ghingher:

Q. Mr. Guckert, who are you employed by? A. By the Bureau of Parks and Recreation.



Q. In what capacity? A. As assistant to either the director or the manager, whoever is in charge of the Stadium.

Q. For how long a period have you held that job? A. Since April, of 1946.

Q. Do the duties of that job keep you at the Stadium?  
A. Yes. In fact, without fail I think I have attended practically every event that they have had there with possibly one, not over two exception, since I have been there.

\* \* \* \* \*

(Tr. pp. 948-949):

Q. How many complaints would you approximate were received by you as the result of any baseball games at the Stadium during the summers of 1946 and 1947, each year? A. Oh, roughly I would say possibly two or three.

Q. In other words, they were not numerous, is that correct? A. That's right. You ask me now about baseball?

Q. I am. Will you also tell the Court how that compares with the complaints you have received as the result of night football at the Stadium? A. Well, before I answer that, at football games, that is, the complaints would be more frequent at night football for some reason. In my opinion, at high school football games they have maybe ten or eleven cheer leaders on each side and they are all shouting for their individual teams at the same time that the speaker is on. We get more complaints, that is, I received more complaints on high school football, and I base it on that reason.

\* \* \* \* \*

(Tr. pp. 949-950):

Q. If any complaint were made as to the use of the loud speaker or as to its volume, from your observation what action would be taken in that connection? A. Well, we

have a phone. The phone would be in this position here (indicating), and about three feet away another phone connected with the control of the Public Address System, and if any complaint came through, we immediately get the man in charge on the other phone and tell him to tone it down a little.

Q. And would he do so? A. Yes.

Q. Some of the complainants, Mr. Guckert, and also some of the complaining witnesses have made mention of dust or, rather, mud on rainy nights or days being dragged out into the street; from your observation, was anything done by any City Department in connection with correcting that condition? A. Well, I have seen the water sprinkler of the City around the stadium on numerous occasions.

Q. I am talking about out in the streets? A. That's what I am referring to, in the street proper.

\* \* \* \* \*

(Tr. pp. 951-953):

Q. When is the baseball diamond constructed in the Stadium, what time of the year? Has it been constructed this year yet? A. It is under protest.

Q. And that is done by whom? A. By the Orioles.

Q. In your experience have you ever seen that diamond used by anyone else other than the Orioles? A. Yes, the amateur baseball series used it I believe three or four days last year.

Q. Three or four days last year continuously? A. That's right. They had the Vatican City Choir there, and they set up these chairs between first and second base.

Q. I am referring now to the amateur baseball games. Were those games held while the Orioles were away? A. Yes, I believe they arranged their schedule—in other words, they did not know when the amateur series was

going to start and it happend they worked it in when the Orioles were away.

### CROSS-EXAMINATION

By Mr. Driver:

Q. How many people on the average go to see those high school football games? A. On the average?

Q. Yes. A. I would say approximately the average would not be over 4,000 to 5,000.

Q. What is the average attendance there when the Navy plays its football games? A. Well, you have as many as 35,000, 40,000 or 50,000, depending on who are playing.

Q. And how many people go to the ball games or averaged the ball games last year? A. I would say from 6,000 to 8,000.

Q. So that the smallest crowds you had at the Stadium were for the high school football games, right? A. Yes.

Q. And your testimony, is that an explanation as to why you get more complaints from the use of the Stadium when the high school boys are using it was because they put six or eight cheer leaders in a row and they all started to root for their team, isn't that what you said?

\* \* \* \* \*

(Tr. pp. 954-955):

A. I didn't say that the reason for the complaints was more cheer leaders. I said that the reason for the complaints was that each side had anywhere from possibly six to ten cheer leaders and they would cheer their individual groups. This side would set up a noise and at the same time the other side would try to out cheer them.

Q. And that noise is louder than it is at the Navy games? A. At times, I would say yes.

Q. 5,000 or 6,000 school boys making more noise than 40,000 or 50,000 college football fans and these same 4,000 or 5,000 school boys make more noise than 6,000 or 8,000 ball fans? A. Yes.

\* \* \* \* \*

(Tr. pp. 968-969):

C. MARKLAND KELLY,  
1400 North Charles Street

# DIRECT EXAMINATION

By Mr. Biddison:

Q. Mr. Kelly, you have been a member of the Park Board of Baltimore City, have you not? A. I have.

Q. What were your dates of service? A. I went on the Park Board in 1935 and stayed eight years to 1943.

\* \* \* \* \*

(Tr. pp. 976-977):

Q. I have asked you the types of the organizations you have had in the Stadium during the time you were on the Park Board. What type of events were staged there? A. Practically everything that a Stadium could accommodate. We had rodeos and we had midget automobile races and we had sports events, boxing, football, lacrosse. We even had Sunday concerts, Easter Sunrise Service. In fact, anything that made application it was my job to bring the Stadium in as far as we could for the people of Baltimore to participate in from a recreational standpoint, and we practically had everything. There wasn't anything turned down that I know of that made application for the Stadium. It was open to everybody. We even put rodeos in there on our grass, which broke Colonel Hancock's heart, but we made arrangement to replace the grass as part of the contract. So I would say anything that came along that the people of Baltimore would be interested in, we tried to put in the Baltimore Stadium.

Q. During that time you have mentioned generally was there or not any professional football permitted in

the Stadium? A. It wasn't a question of permitting any particular thing. I remember in 1935 we had a request for a Sunday game between the north and south teams which would have been commercial, because it was being done for commercial purposes. That was back as far as 1935. Then there was a pretty strong sentiment that maybe the public park which is known as the Stadium, should be used on Sunday, and when the game was finally supposed to come off we had a big snow storm and it did not materialize. But there was at that time very definite sentiment about using the Stadium on Sunday, which has been washed out in future years.

\* \* \* \* \*

(Tr. p. 978):

Q. But after that there were Sunday games instituted and before that too? A. Sunday games, to my knowledge, did not materialize until Mayor McKeldin became Mayor. That was in 1943 I think. I think he sanctioned it then. When Mayor Jackson went out of office I think in 1943, Mayor McKeldin came in. Permission was then given to have Sunday events. But we did have Sunday concerts there on Sunday nights and we had a lot of protests on those.

### CROSS-EXAMINATION

By Mr. Driver:

\* \* \* \* \*

(Tr. p. 979):

Q. You considered this Stadium just as you did any other public park, is that right? A. That's right. It belonged to the park system.

\* \* \* \* \*

(Tr. pp. 979-980):

Q. Prior to 1944, July, Mr. Kelly, is it not a fact that the Baltimore Stadium was used primarily and almost exclusively for the playing of inter-scholastic,

inter-collegiate athletic events and for civic and religious meetings? A. Prior to 1944?

Q. Yes. A. No, I wouldn't say that. As I stated before, we would put anything in there we felt the public would get recreation from, and we had a lot of commercial events in there.

Q. Among the commercial events you said were in there you mentioned the rodeo, the midget auto races, and the boxing, is that right? A. That's right.

\* \* \* \* \*

(Tr. pp. 981-984):

Q. Were you a member of the Board when the midget auto races were operated in the Stadium? A. Yes, sir.

Q. Suppose you tell the Court what happened with that experiment? A. Well, the midget automobiles races came in I think that year we had Lucky Teeter, which was a stunt show, and we had a rodeo. We were having them constantly, every time we could get them. I had an application from the Rudy organization to permit midget automobile races, and the Stadium Committee, of which I was Chariman, consisted of General Hancock, Leroy Nichols, the general superintendent and myself. We sat down on it. We couldn't see any objection. It was the unanimous opinion of the Stadium committee that the recreation that the people would gain in all of these cases would be O.K. as far as the committee was concerned. At that time Mr. Durkee was president and he had gone to California, and I was also acting as president of the Park Board along with being Chairman of the Stadium. So I signed the contract. There appeared in the paper a picture of the signing of the contract and some group of people protested putting the races in there and some people in the neighborhood were disturbed, and they proceeded to stop the races, and that was the first event that we had in there that had not been satisfactory.

(The Court) You stopped them or somebody else?

(The Witness) No, that was the first event that had not been sponsored by an organization. Everything had been sponsored by different organizations in town and the thing grew in momentum and this group appeared before the Park Board protesting the use and the Park Board, before they would give a cut and dried decision, because I mean the contract had been signed by me as acting president, which made it official, to the Stadium committee, and a group got an injunction against the running of the midget automobile races. The suit was entered—

(The Court) What group was that, do you know?

(The Witness) Well, I understand it was a group in the neighborhood and also I think with a little help from some people who were interested in schools. A certain lady did not want them in there. She painted a right big picture of the elements that would be attracted to the neighborhood, and things of that kind, and the injunction came up before Judge Conwell Smith, and I think, not being gifted in the legal profession, I think he dismissed the injunction—

\* \* \* \* \*

(The Witness) I said I was not gifted in it, but I think the injunction was dismissed and the midget races went on. Then the pressure grew to the point when the law sided with the Park Board, the pressure came from other sources, administrative sources, and the Park Board in December at the old Mansion House at Druid Hill Park had this meeting and through a three to two vote cancelled the contract for the midget automobile races, leaving the owner with a deficit of around \$15,000. So it wasn't the law that put them out but the Park Board through a vote of three to two to discontinue the midget automobile races.

\* \* \* \* \*

(Tr. pp. 984-985):

Q. You have not answered my question, Mr. Kelly, about the general, normal use of the Baltimore Stadium

prior to 1944. Is it not a fair statement and an accurate statement to say that for the most part from 1922, and more particularly from 1935 to 1943, when you were a member of the Board, the Stadium was used primarily for scholastic, inter-collegiate, civic and religious events?

(Tr. pp. 985-987):

A. I will answer that by saying from 1935 to 1939, not by choice, but by necessity the Baltimore Stadium was used on a Saturday afternoon by college football and the Stadium was used once a year by the Poly and City game, which was then played on a Saturday afternoon but they were worked in between the college football games. In those days we had Western Maryland, University of Maryland, and schools like that, and that was the only time that the Stadium could be used because Saturday afternoon was the only afternoon it could be used. I say it was not by choice but you only had one day to give out, so naturally you gave it to a college, which out-ranked the prep schools in those days and the prep schools in those days did not have the teams that they have now. The Poly-City game was the game and that was the end practically of your football activity. We did have some lacrosse games there but they were mostly college teams because I say you only had one afternoon to play on in those days. When the lights were put on that reversed everything. We had a game on Friday and a game on Friday night, we had a game Saturday afternoon and a game Saturday night. Navy would play on a Saturday afternoon or one of the school boy games would move in.

Q. That was infrequent, wasn't it? A. No, no, that was when the lights went in there. The whole stadium started to pick up and the school boys, it developed made money and these boys have supported themselves through the activity of these games by playing a number of games in there from the time the lights went in.

\* \* \* \* \*



(Tr. pp. 990-991) :

Q. Is it not true, Mr. Kelly, that the first time the Baltimore Stadium was ever consistently or extensively leased to an exclusively profit making organization was when the arrangement was entered into between the Park Board and the Baltimore Baseball and Exhibition Company? A. I can answer that question. I will say yes, and I will say we never had a bigger athletic outfit than Navy. I have dealt with Navy from 1935 on and there isn't a bigger commercial crowd operating in the United States. It is a national organization that travels all over the country and travels at the expense of what they have earned at these games. So when you ask me the question, yes, I am putting Navy in much the same status as the Orioles or any other team, the Bullets or any other team. I might add to that that our school department is just as commercial.

\* \* \* \* \*

(Tr. pp. 996-1000) :

# REDIRECT EXAMINATION

By Mr. Biddison:

Q. Mr. Kelly, you referred in your examination to professional prize fights in the Stadium you think occurred during the time you were a member of the Board. The schedule of events shows that on June 26th, 1941, there were prize fights and then in parentheses after that it says Jack Lakin. Does that refresh your recollection?

A. That was a professional prize fight, Jack Lakin.

Q. Who is Jack Lakin? A. He was a fight promoter.

Q. And he was a private fight promoter? A. That's right. The name comes back to me now. I remember very well at that time they were going to have a regular series of fights in there and the backing was a little poor. I forget the man's name, I think he is dead now, but it did not materialize. But they still were given permission and they still would have been given permission to carry on if they had wanted.

Q. The schedule further shows on June 23rd, 1943, there was a war industries boxing tournament. Was that of a professional nature? I don't know whether you were on the board then or not? A. I might have been. From 1942 on, Mr. Biddison, after a certain date I wasn't very active in public life or any other life. So I can't remember that.

\* \* \* \* \*

(The Court) I want to ask you this question. You were on the Board eight years, weren't you?

(The Witness) Yes, sir.

(The Court) In all of that time did you ever distinguish in booking events, those events where the proceeds went to private persons or private organizations and those events where the proceeds went to public or civic organizations, in order to decide whether or not the person could have a permit for the use of the Stadium?

(The Court) To make it clear, did you distinguish between enterprises where the proceeds went to private persons or organizations or enterprises, where the proceeds went to public or civic uses?

(The Witness) No, sir.

(Mr. Driver) I object to the question, if the Court please.

(The Court) All right. I will give you an exception.

\* \* \* \* \*

LIEUTENANT MILLARD F. LIVINGSTONE

DIRECT EXAMINATION

By Mr. Harlan:

Q. Lieutenant Livingstone, what is your position? A. Lieutenant of the Park Police.

Q. Have you been assigned to the Baltimore Stadium? A. I have, sir.

Q. Since when? A. Off and on since 1930, I have been there as patrolman, as sergeant and as Lieutenant.

Q. Have you been assigned there since July 4th, 1944, up to the present day? A. Yes, sir, I have.

Q. In your assignment, do you attend a majority of the baseball games which have been held there? A. I do.

\* \* \* \* \*

(Tr. p. 1000):

Q. Do you also attend football games? A. I do.

Q. Have you attended the majority of them since 1944?  
A. The majority of everything that went on in the Stadium.

\* \* \* \* \*

(Tr. p. 1001):

Q. Speaking only about the baseball games, not the football games, how many men would you usually have detailed? A. We have had as high as fifteen or twenty men over there at some of the larger games.

Q. Where are they stationed? A. Anywhere from four to six motormen ride the fence, the rest of them are stationed on the inside of the Stadium around the field or press box, radio box, administration building.

\* \* \* \* \*

(Tr. pp. 1001-1002):

Q. You have had chances to observe the crowd at the baseball games and at the football games, isn't that correct? A. Yes, sir, I have.

Q. Can you tell his Honor the condition of the crowd as to orderliness and behavior at the baseball games, and also their behavior and orderliness at the football games?  
A. Your Honor, the baseball crowd seem to be well behaved over there because I judge the athletic sport is held in the summer time, it is warm, and in the winter time you have some trouble with spectators drinking and

getting unruly and they give us quite a bit of trouble over there.

\* \* \* \* \*

(Tr. pp. 1003-1004):

Q. Have your men made any arrests outside of the Stadium since the Orioles have been in there? A. No, sir, we have not.

Q. How about occasions of football games in 1947. Did you make any arrests? A. There were arrests made there; yes, sir.

Q. How many? A. I judge there were about, if I recall right, about eight or ten of them.

Q. More or less or is that the number? A. I am most sure it was more in the football games than it was in the baseball games; probably eight or ten I would say.

(The Court) Do you mean 1947?

(The Witness) Yes, sir.

Q. Were they made inside or outside of the Stadium, do you know? A. Inside of the Stadium.

### CROSS-EXAMINATION

By Mr. Driver:

\* \* \* \* \*

(Tr. p. 1007):

Q. On the average game, assuming there are 4,000 or 5,000 people there, how many men do you have inside? A. We would have about six men.

Q. Six men inside of the Stadium? A. Yes.

Q. And how many would you have riding outside? A. Probably two motormen.

\* \* \* \* \*

(Tr. p. 1007):

Q. Are there some members of the Baltimore City Police Department in the Stadium? A. Yes, sir, there are.

Q. What are they doing there? A. They are assigned there by their commanding officer. We don't have any jurisdiction over them.

Q. Are they there to supplement or assist you? A. We are there for that purpose, in case anything should turn up both of us would take a hand in it.

\* \* \* \* \*

(Tr. p. 1010):

LIEUTENANT AUGUST K. GRIBBIN  
Northeastern Police District

# DIRECT EXAMINATION

By Mr. Biddison:

Q. Lieutenant Gribbin, you are Lieutenant of Police assigned to the Northeastern District? A. That's right.

Q. In the course of your police duties in the Northeastern District, have you been assigned to the Stadium area at any time? A. Yes, sir.

Q. When have you been assigned to the Stadium area? A. For the nine years I have been in this district.

Q. And particularly with regard to the Stadium, have you been given any special duties with regard to it? A. Yes, sir. At most of the baseball games and all the football games.

\* \* \* \* \*

(Tr. pp. 1011-1012):

A. Sixteen men, two men from each of the eight districts.

Q. They were assigned or that number was assigned regardless of the size of the expected crowd? A. Yes, sir.

Q. Where were those men assigned by you in the Stadium District? A. Two of the men were assigned to the ticket offices, three on the front gates, three on the front lawn, two on the inside of the building, the playing field and the other six around the Stadium fence.

Q. That is on the outside of the Stadium fence or inside? A. on the outside.

\* \* \* \* \*

(Tr. pp. 1012-1013):

Q. In 1947 with regard to arrests made inside of the Stadium by your men, how many were made during the baseball season? A. Four for the baseball season.

Q. How about the football season? A. Twelve for the larger football teams and five for the high school teams.

\* \* \* \* \*

(Tr. pp. 1013-1014):

Q. For the 1947 baseball season how many arrests were made by the Baltimore Police Department outside of the Stadium during the baseball season? A. None. There was one arrest I made personally on 33rd Street but that was just on the Stadium pavement.

Q. That was the situation where you arrested him because you had taken two men from the inside and he insisted on being taken along too? A. Yes.

Q. So he actually was arrested outside but he came out with his friends from the inside? A. That is correct.

\* \* \* \* \*

(Tr. p. 1014):

Q. How about football, Lieutenant, during the 1947 season? A. The men that were assigned to me at the Stadium did not make any arrests, but the district men

had arrested nine boys for stealing out of automobiles in 1946 and 1947; five in 1946 and four in 1947.

Q. That was outside the Stadium? A. Yes.

Q. That was during the football season? A. That was during the football season.

\* \* \* \* \*

(Tr. pp. 1015-1016):

Q. Are you familiar with any parking signs in the neighborhood surrounding the Stadium? A. I think so.

Q. Are such signs placed by the Police Department in various streets and alleys surrounding the Stadium? A. Yes, sir.

Q. Who places those signs up, at whose instance are they placed? A. The signs along the main thoroughfares like 33rd Street and Ellerslie Avenue are placed by the Traffic Division. The signs in the back alleys are placed by the men of the Northeastern District out of the Belair Road sub-station.

Q. Do you know how many such signs in the back alleys are placed by the men of the Northeastern District? A. Well, enough to cover all of the alleys running north from 33rd Street, from Ednor Road to Hillen Road.

### CROSS-EXAMINATION

By Mr. Driver:

Q. Lieutenant, these statistics you have given us about the number of arrests that were made, how do you obtain that information? A. I searched the police dockets at the Northeastern District.

Q. Would they show where the arrests were made? A. In the charge it would specify disorderly conduct at the Baltimore Stadium.

Q. Is that the invariable practice of the police docket, to show where the arrests was made? A. Most of the time; yes, sir.

\* \* \* \* \*

(Tr. p. 1017):

Q. Have you received any complaints from any of the residents of the area while the Oriole games were in progress? A. Indirectly.

\* \* \* \* \*

(Tr. pp. 1017-1018):

Q. Is there any record kept in the Police Department of calls that are received or made by people calling up making various complaints about parking and so forth? A. Well, there is a record if it is a quite habitual aggravation and has to be looked into day after day, there is a record kept.

Q. How about the situation out there at the Stadium, has that required constant attention? A. Mister, if you are referring to the situation in the alleys near the Stadium about parking and blocking garage entrances I can say we keep a record of the complaints, but not who the complainant was. In most instances they would not give their names. That complaint was rectified by the officers placing no parking signs through the alleys, prohibiting such a violation.

Q. Well, did that prohibit it just because they put up the signs? A. No, it did not prohibit it, but it did help out a great deal and it resulted in a number of automobile drivers being summoned to the Traffic Court for failing to obey the signs.

Q. But it still did not prevent them from parking there, did it? A. Not a hundred per cent.; no, sir.

\* \* \* \* \*



(Tr. pp. 1024-1029):

SERGEANT HARRY FULLER

DIRECT EXAMINATION

By Mr. Harlan:

Q. Sergeant Fuller, what district are you attached to?

A. At the present time I am attached to the Traffic Division, but assigned to the Traffic Engineering Bureau.

Q. Are you familiar with the Baltimore Stadium and surrounding territory? A. Pretty much, sir.

Q. Are you familiar with the signs placed around the Baltimore Stadium with particular reference to the alleys? A. Yes, I am.

Q. And did you at our request prepare a chart showing the signs relating to parking in the alleys around the Stadium neighborhood? A. Yes, I did.

Q. Those signs are what kind of signs, Sergeant? A. Those signs are a metal type sign.

Q. What do they say? A. "No parking in this alley", with the words "Police Department" at the bottom.

Q. Have there been such signs in those alleys placed there by the Police Department? A. Yes.

Q. How long have they been there? A. For a period of time or over a period of time.

Q. Since 1944 have they been there? A. Yes, they have during the period of time when athletic events or the Stadium might be in use.

Q. And that includes the baseball seasons of 1944, 1945, 1946 and 1947? A. That's right.

Q. I show you this paper and ask you to tell me what it is. A. This is just a hurried plat I made of the approximate locations of the signs in the alleys that adjoin or abut on the streets adjoining the Stadium.

Q. How many signs are there, Sergeant? A. At the present time or as of last year we used thirty-three signs.

(Mr. Bartlett) I would like to offer this in evidence.

(Paper referred to offered and received in evidence as Defendants' Exhibit 8.)

Q. Sergeant, are you familiar with the placing of signs on the streets surrounding the Stadium? A. Not directly, sir.

Q. Are these signs you have testified to in regard to the alleys clear and visible? They are up on poles, are they, or on standards? A. Thirty-two of these signs are placed on standards. We have one on a pole. These types of signs on standards are legible from both sides and they are pretty discernible upon entering the alleys. We try to place one at each end, upon entering the alley or exit.

#### CROSS-EXAMINATION

By Mr. Driver:

Q. Did you put these signs up yourself? A. I supervised the placing of them.

Q. Did you ever go back to see whether anybody ever paid any attention to them? A. I wasn't on the enforcement end, sir, I never checked the enforcement of them.

Q. You don't know whether the "No Parking" signs prevented people from parking or not, do you? A. My opinion is that they did, sir. They were very effective in most cases.

Q. But you don't know of your own personal knowledge that they did? A. I am talking from my own personal knowledge.

Q. Were you back there when the baseball crowd was there and their cars parked there? A. Yes, on several occasions I will say; not all occasions.

Q. How many occasions since 1944? A. Since 1944?

Q. During baseball season? A. I would say four, sir.

Q. And each time you surveyed them, they appeared to be clear? A. Not entirely clear; no, sir.

Q. There were some violations? A. That's right.

Q. But not to any substantial degree, is that your testimony? A. That is true, sir.

Q. Did you happen to be in the alley or near the property, one of the properties up on Rexmere Road last summer when a fire broke out in a house? A. No, sir, I wasn't there at that time.

Q. Did you know about that fire? A. I would say no, I don't know the full particulars of it. I heard something about it but not in full particulars.

Q. You did not have any conference with somebody from the Fire Department about it? A. No, sir.

Q. About their inability to get into the street? A. No, sir. I have heard nothing about the obstruction of the alley.

Q. Your job is to put the signs up and that lets you out, is that right? A. My job wasn't to put them up, the laboring group put up the signs. But I checked them on several occasions.

Q. To make sure that they were still there? A. That they were properly placed.

#### REDIRECT EXAMINATION

By Mr. Harlan:

Q. When you went back on these four occasions and saw several violations, you did not know whether they were cars belonging to the neighbors or to the ball fans, did you? A. That is true, sir.

\* \* \* \* \*

(Tr. p. 1032):

JOSEPH J. KING,  
535 North Washington Street

DIRECT EXAMINATION

By Mr. Ghingher:

Q. Mr. King, what is your present position? A. Secretary of the Board of Recreation and Parks.

Q. How long have you occupied that position? A. Since July of the year 1946.

\* \* \* \* \*

(Tr. p. 1034):

Q. Does one of your duties include that of custodian of the Park Board records? A. That's right.

Q. And among those records do you have a financial report which indicates the relationship between receipts and expenditures at the Stadium since the time it was constructed? A. I do.

Will you take that report out, please?

\* \* \* \* \*

(Tr. pp. 1034-1035):

(The Court) I will admit it over the objection, giving you an exception, Mr. Driver.

\* \* \* \* \*

(Tr. pp. 1035-1037):

(The Court) I notice in 1946 that the expenses were almost double what they were in the previous year. In other words, they were \$76,000 in 1945 and \$145,000 in 1946.

(The Witness) Yes, sir.

(The Court) Can you tell me why that occurred?

(The Witness) Yes, your Honor. That occurred because in the year 1946 a large repair job was done to the

seats in the Baltimore Stadium and it was contracted out, and that is in that item.

(The Court) You mean to say you probably spent around \$75,000.

(The Witness) About \$75,000 to \$80,000.

(The Court) As the cost of repairs to seats.

(The Witness) Costs of repairs to seats.

(The Court) Was it exclusively confined to that item?

(The Witness) Yes, to the amount of \$75,000 or \$80,000.

(The Court) The \$48,000 you received from the Orioles in 1947 is included in the one hundred twenty-one odd thousand dollars of earnings, is that correct?

(The Witness) That is correct.

\* \* \* \* \*

(The Court) This is merely in the nature of a detailed statement of expenditures, isn't it?

(Mr. Ghingher) That is correct.

(The Court) Do you want to offer it?

(Mr. Ghingher) Yes, sir, in connection with the previous exhibit.

(The Court) I will admit it and give Mr. Driver the exception.

Q. Will you read into the record what that statement is? A. This is a statement of expenses of the Baltimore Stadium during the years 1936 to 1946.

(Papers referred to offered and received in evidence as Defendants' Exhibit 9 and Defendants' Exhibit 10.)

\* \* \* \* \*

(Tr. pp. 1040-1041):

(The Court) Aren't the schedules in evidence?

(Mr. Driver) I think they are, your Honor. I offered them.

(The Court) They do not seem to have been marked. Have them marked.

(Papers referred to offered and received in evidence as Defendants' Exhibit 11.)

Q. At our request, Mr. King, have you made an analysis of the use of the Stadium for baseball and for other purposes as well? A. Yes, I have.

Q. Beginning in 1939, at which time it has been testified that lights were installed in the Stadium, will you tell the Court what the percentage of night use in each year has been up to the present time? A. In 1939, the percentage of night use as compared to the entire Stadium use was 65%. In 1940, the percentage of night use as compared to the entire Stadium use was 65%. In 1941, the percentage of night use as compared to the entire Stadium use was 50%. In the year 1942, the percentage of night use as compared to the entire Stadium use was 69%. In the year 1943, the percentage of night use as compared to the entire Stadium use was 70% of that entire use.

Q. Continue, please. A. Now, in the year 1944, the night use was 64% of the total use.

\* \* \* \* \*

(Tr. pp. 1041-1043):

Q. 1945? A. In the year 1945, the night use was 70% of the entire use. In 1946, the night use was 65% of the total use. In 1947, the night use was 62% of the total use.

Q. In each of those last four years your figure reflects the inclusion of night baseball, is that correct? A. That is correct.

Q. Now, will you read to the Court from your analysis the number of night games, other than baseball games, which were played in 1944 at the Stadium, and carry

that on down to the present time? A. In the year 1944, games and events other than Oriole baseball, for a total of seventeen nights, eighteen events. In the year 1945, all events and games other than Oriole baseball were twenty-one nights, twenty-one events. In 1946, all events other than Oriole baseball at night, fifteen nights, sixteen events. In 1947, all night events or games other than Oriole baseball, twenty-two nights, twenty-three events.

Q. From the records of the Board of Recreation and Parks, have you had an opportunity to calculate the average attendance figures for baseball games, during the time that the Orioles have been there? A. Yes, I have.

Q. Will you tell the Court what that average figure comes to? A. The average per season I have arrived at by taking the attendance and dividing it by the number of days that they played, and I got an average per game per night. In the year 1944, the average per night is 14,000. 1945, 6,800. 1946, 13,000. 1947, 6,700.

Q. That is regarding baseball games at night, is that correct? A. The baseball games at night only.

\* \* \* \* \*

(Tr. p. 1044):

Q. Are there any other recreational centers or playgrounds which are controlled by the Board of Recreation and Parks, and which are located on public property?

\* \* \* \* \*

(Tr. p. 1045):

(The Court) I will overrule the objection and let you show if you want to, that the recreation board has jurisdiction over recreation grounds in Baltimore City.

\* \* \* \* \*

(Tr. pp. 1046-1047):

A. The Board of Recreation and Parks has under its jurisdiction parks and recreational areas, including playgrounds, and a number of these playgrounds are located



in the City of Baltimore on City property, under the Bureau of Recreation, which is a bureau of the department and maintained and operated and under leadership by that bureau, which comes directly under the jurisdiction of the Board of Recreation and Parks. The location of some of those are the Luzerne Avenue playground, Durham Street Tot Lot, McHenry Street Tot Lot, Willow Avenue playground, Willard playground, Carroll Street playground, May Street Tot Lot, Fleet Street playground. These are individual little lots, not in any park, large or small, which are used for recreational purposes under the leadership of the Bureau of Recreation, a branch of the Department of Recreation and Parks.

\* \* \* \* \*

(Tr. p. 1051):

#### CROSS-EXAMINATION

By Mr. Driver:

Q. Mr. King, the Department of Recreation and Parks maintains, operates, controls and polices and generally manages the Baltimore Stadium, among other public park property, does it not? A. Did you say police?

Q. Yes, polices it. A. Yes, the Park Police are under the jurisdiction of the Board of Recreation and Parks.

Q. And they have been ever since you have been connected with it as secretary? A. That is correct.

\* \* \* \* \*

(Tr. p. 1052):

Q. Now, the Park system maintains, I believe you said, the Stadium property and you have told us about receipts and expenses received and made in connection with the Stadium. This itemization you have given does not include all the receipts and expenditures, does it? A. Yes, it does.

Q. Does it include the salary of the policemen that go out there to police the games? A. Yes, it does.

\* \* \* \* \*



(Tr. p. 1054):

(The Court) He says the Park Police are on there, but the City police are not. Is that what you say?

(The Witness) That is right.

\* \* \* \* \*

(Tr. pp. 1055-1056):

Q. There is no item in here including any amortization or depreciation of the original cost as operating expenses?

A. That wasn't the purpose of that report, to show the original cost of the capital investment.

Q. Of course, if you want to show it is operating on the right or lefthand side of the ledger, that is a legitimate item of cost, isn't it? A. Any item is, I suppose, that costs money.

Q. And that is excluded from this statement, isn't it?

A. It is excluded from that statement because it does not show anything as to capital investment. That statement is to show the cost of operating and the revenue and not to show capital investment. If you want that, we can give it to you.

\* \* \* \* \*

(Tr. pp. 1065-1067):

Q. The use of the Stadium at night, since the Orioles have come in, has materially increased the night use of the Stadium, hasn't it? The night use has increased, in other words, since the Orioles came in? A. Not as a percentage of the entire Stadium use, it hasn't.

Q. But as a percentage of the use between April and September it has, hasn't it? A. The number of events has increased but the percentage of total night use in relation to total Stadium use, was relatively the same as before or after. Before, the day use increased as night use increased proportionately in a percentagewise fashion.

Q. Last July or August the Orioles played almost for two weeks straight, didn't they? A. I would have to look that up on the schedule sir.

(The Court) If it is somewhat like the projected 1948 schedule, I would say that is probably so.

(The Witness) I don't know how many games they played in July unless I look at the records.

Q. Your testimony to the Court, then, is that the Orioles coming in there has not materially increased the use of the Stadium, is that it? A. That isn't quite true.

Q. What is true?

(The Court) I think his statement is this. I don't want to answer it for him, but as I gather it, it is that there is no proportionate increase in the night use of the Stadium, that there has been a general increase in both the day and night use but that the night use in 1939 was 65% and the night use in 1944, when the Orioles came in there, was 64%, which is about the same thing, and there was an increase in both the day and night use but relatively the same; is that correct?

(The Witness) That is correct.

\* \* \* \* \*

(Tr. pp. 1077-1078):

# CROSS-EXAMINATION

By Mr. Kemp Bartlett:

\* \* \* \* \*

(Tr. p. 1081):

Q. Have you prepared from your record a statement of the uses of the Stadium for 1947 and other years? A. Yes, I have.

\* \* \* \* \*

(Tr. p. 1082):

Q. I understand that is a statement of uses in each of the years that it was prepared for, for events which

were held on the field as distinguished from anything held in doors in the Administration building? A. That is correct.

\* \* \* \* \*

(Tr. pp. 1082-1085):

Q. Will you look at your figures for 1947 and tell his Honor how many field events were held at the Stadium during that year? A. The total field events was 103.

Q. How many of those were held in the day time and how many at night? A. 39 were day uses and 64 were night uses.

Q. 103 events, field events, were held on 103 days? A. Yes.

Q. And of those 103, 39 were in the day time in the light, and 64 were at night? A. That is correct.

Q. No, let us break down the 39 day time uses. A. Of the 39 day uses in the year 1947, 15 uses were Oriole baseball and 24 uses were other than Oriole baseball.

Q. Now, then, the night uses of the baseball. A. Of the 64 night uses in 1947, Oriole baseball 42 nights, other than Oriole baseball uses 22 nights.

Q. How many of the night events for the Orioles? A. 42 nights.

Q. 42 nights for the Orioles and other events 22 nights. Now, take the events held at the Stadium for 1946, and only field events, how many were there altogether? A. 92 events.

Q. Will you break that down into day time and night time uses? A. The day uses 32, the night uses 60.

Q. Now, let us break down the day uses. The Orioles used it in the day time how many days? A. 16 times.

Q. And other uses? A. Other uses 16 times in the day.

Q. At night? A. At night of the total 60, total 60 night uses, the Oriole use was 45 nights and others 15.

Q. Now, let us do the same for the year 1945. How many uses? A. Total uses in 1945, 93 for the entire Stadium.

Q. Break that down into the day time and night time uses. A. Day use 27, night use 66.

Q. Break down the day time use? A. The day time use, Oriole baseball 13 uses, other uses 14; night uses, of the total 66 night uses, Oriole baseball 45 nights, other night uses 21.

Q. Now, take the 1944 season. A. 1944, there were seventy events held in the Stadium. Of the 70, 25 were day use, 45 night use, and of the 25 day use, 9 were used by the Orioles and other uses 16. Of the 45 night uses, 28 nights, for Oriole baseball, 17 nights for other types of events.

Q. How many uses of the Stadium were there in 1943? A. In 1943 there were 22 uses of the Stadium, 7 were day and 15 were at night. There was no baseball.

Q. In 1942. A. In 1942 there were 39; 12 day, 27 nights. In 1941, 40 uses; 12 day, 29 night, and 8 uncertain because our records don't show whether they were day or night.

Q. It could have been day and could have been night? A. It could have been day and could have been night. I would say fifty-fifty.

Q. In 1940? A. In 1940, 10 day, 26 nights, 4 uncertain.

Q. And 1939? A. 1939; 14 day, 26 nights.

Q. And back of 1939 there were no night uses? A. No, because the lights were not installed before 1939.

\* \* \* \* \*

(Tr. pp. 1090-1091):

LLOYD G. McALLISTER,  
217 Court House

DIRECT EXAMINATION

By Mr. Harlan:

Q. What is your position, Mr. McAllister? A. I am an assistant City Solicitor in charge of the real estate division.

Q. How long have you been an assistant City Solicitor? A. Four and approximately half years.

Q. Prior to that, by whom were you employed? A. Maryland Title Guaranty Company.

Q. How long did you work there? A. Twenty-two years.

Q. In what capacity? A. I was Title attorney, examining titles and writing opinions upon them.

\* \* \* \* \*

(Tr. p. 1091):

Q. You are familiar, are you not, with the property acquired by the City of Baltimore upon which the Stadium has been built? A. Yes, I am familiar with it.

\* \* \* \* \*

(Tr. pp. 1092-1094):

Q. Mr. McAllister, are there any limitations in any of the deeds or restrictions as to the use of the property? A. In my judgment there are no restrictions as to the use.

Q. In your opinion, would this property conveyed to the City of Baltimore, make it properly dedicated for park purposes? A. No, it would not. In my judgment, it was not by the deeds dedicated for park purposes.

Q. And why do you say that? A. Because the deeds do not contain any language or provisions that would act

to dedicate it, in the first place. Then it is not unusual for the Park Board or any agency of the City, City Solicitor, the Comptroller, anyone for that matter, to buy on behalf of the City, property. For instance, you take Wyman Park, it was purchased primarily for park purposes or that was the idea, but they came along and put the Art Museum there. You will find it all over the City. In Clifton Park you have the high school. You take the piers around the harbor, which were originally established in some cases by loans that were floated through the agency of the Harbor Board. Well, those piers were leased to individuals in connection with the increased commerce. The piers, some of them becoming vacant, they released to persons for parking purposes, stores, and different uses.

Q. Isn't it also true that part of Venable Park was used for school purposes? A. That is right, yes, City College and the Eastern High School are located there.

\* \* \* \* \*

(Tr. pp. 1094-1095):

#### CROSS-EXAMINATION

By Mr. Driver:

Q. Do you mean by that the City could put an incinerator out there in Venable Park, on the same theory? A. Yes, I mean just that.

\* \* \* \* \*

(Tr. p. 1095):

Q. Let us see if you do, Mr. McAllister. Two of the deeds by which the City acquired title have the same reference for park purposes in them? A. That is right.

Q. And the Stadium itself is built on a piece of property covered by one of those deeds, is it not? A. Well, that is a question I am not able to answer. It would be very little of it, if any, because that is up to the north, a small strip.

Q. Well, it is certainly within what would be the area bounded by Ednor Road, 36th Street and Ellerslie Avenue, wouldn't it? It is south of 36th Street, between Ellerslie Avenue and Ednor Road, isn't it? A. That is correct, yes.

\* \* \* \* \*

(Tr. p. 1098-1100):

Q. Don't you understand, Mr. McAllister, that the City itself holds title as trustee for the public to the land to which it acquires title? A. Sure, that is right.

Q. And as trustee for the whole public, it is limited in the use or uses to which it may be put. A. Sure, it is to be for the use of the people.

Q. In establishing in your own mind this question of whether the Stadium is constructed on dedicated public park property, did you investigate the history of the Stadium? A. To a certain extent, yes.

Q. Did you, for instance, know that it was constructed by the Park Board? A. No, I did not know that.

Q. Did you know that it has been maintained and operated, policed and controlled by the Park Board from the date of its construction down to the present time?

(Mr. Kemp Bartlett) For more than twenty-six years.

Q. Did you know that? Yes, I can say it has been under the supervision of the Park Board.

Q. And you knew that at the time you reached your opinion? A. Yes, that is right.

Q. Did you know that it was and has been from its inception down to the present time projected on city maps of the Park Board as public park property and one of the parks of this city? A. Yes, I can say that, but I want to make this clarification, if I can. That just because the City uses that for park purposes or bought it for park purposes does not mean that they cannot use it

for other uses in connection with the City's operation. That is what I meant in my prior statement.

\* \* \* \* \*

(Tr. pp. 1101-1103):

Q. It is your testimony that even today, if the City decided they wanted to put a fire station, a police station, an incinerator on the property of the Stadium, they could do it? A. Yes. That is for the protection of the public and the only prohibition against that is that the City might be liable—if it goes in, liable to building restrictions or something to that effect. But here you don't have those building restrictions. They can put a fire house there, or anything for the public welfare, in my opinion.

Q. Do you consider the acquisition of this land, beginning in 1907 and extending through a period of years, as an acquisition of an area for park purposes? A. Well, I assume that they did acquire it for park purposes.

Q. Did you consider, in arriving at your opinion, that, as expressed in one of the exhibits filed by the City in this case, that the Stadium was purposely built in park property? A. I have not seen the exhibit, Mr. Driver.

Q. Did you make any real investigation, Mr. McAllister, as to the history and background and prior use of this Stadium? A. To a certain extent, yes.

Q. Did you go down to Doctor Flack's office and examine those files? A. No, I did not.

Q. To determine its history? A. In my judgment, I don't think it is material what the City bought it for or how it was judged to buy it or the office or anything. You have a tract of land that it used for park purposes.

Q. But when you have a park you know, as a title expert, that certain legal consequences flow from that fact, don't you? A. It is not limited to use or change, it is different from a restriction—



Q. Do you say the use of a park does not limit the use of the land the city can make of it? A. Not necessarily, no, sir. I can cite a dozen cases where it is done legally.

\* \* \* \* \*

(Tr. p. 1105):

Q. But in arriving at your opinion, you have not made any investigation to determine its use and maintenance, and so forth, from 1922 on down? A. In my judgment, that does not affect it at all. You asked me about the matter of dedication. The City is in a different position than an individual, in my opinion, in the matter of dedication. The City, if it makes a particular use of a piece of land, that does not mean if that use is stopped or a reverter occurred and it goes back to the former owners, it is my opinion, the City can change the use of any of its property.

\* \* \* \* \*

(Tr. pp. 1110-1111):

(The Court) I believe you are talking about different things. Here is what I got from Mr. McAllister. His statement is that if the place is bought by the Park Board and used as a park and continues to be managed by the Park Board, it is a park. But if in the administration of the City that place should be handed over to somebody else and ceases to be used as a park, then it becomes something else and that as long as the city holds title to it, and there is no restriction in the deed restricting it to park uses when it is turned from one agency to another of the City, it takes whatever that present use of it determines it to be.

(The Witness) That is what I had in mind.

\* \* \* \* \*

(Tr. pp. 1119-1121):

CLARENCE P. ADAMS  
609 West 40th Street

DIRECT EXAMINATION

By Mr. Biddison:

Q. Mr. Adams, you are a graduate of what university or college? A. Graduate of the Engineering School of Johns Hopkins University.

Q. When did you graduate from there? A. 1924.

Q. And your present business is what? A. I am a consulting electrical engineer for the firm of Henry Adams, Incorporated.

Q. And you have been engaged in that capacity for how long? A. Since 1926.

Q. Did you have occasion on March 8th of this year to make a test of the Stadium lights? A. I did.

Q. What was the condition of the weather that night? A. It was a clear night.

Q. What time did you make your test? A. We started at 8:30.

Q. And where did you make tests? A. We made tests at various points surrounding the Stadium.

Q. What type of tests did you make? A. We made foot candle readings with the Stadium lights off and then went around to the same locations and made foot candle readings with the Stadium lights turned on.

Q. Were all the lights turned on? A. All the lights were turned on.

Q. Would you detail to his Honor the various locations at which you made readings and the readings that were made then, with the lights off and with the lights on?

(Mr. Driver) I object to that. I don't see that that is relevant.

\* \* \* \* \*

(Tr. pp. 1121-1123):

(The Court) Overrule the objection. Go ahead. Give you an exception.

A. At 1200 East 33rd Street with the Stadium lights off, the reading was .0518 foot candle. With the Stadium lights on the reading was .308. At 1204 Lakeside, with the Stadium lights off, .0294. With the Stadium lights on, .126. At 1318 Lakeside, Stadium lights off, .0174. With the Stadium lights on .0392. At 1319 Windemere with Stadium lights off, .014. Stadium lights on .0266. At 1305 Windemere, Stadium lights off, .0168. Stadium lights on, .672. At the corner of 36th and Elkader Avenue, Stadium lights off, .0531. Stadium lights on, .1205. On the corner of Venable and Ellerslie, Stadium lights off, .252. Stadium lights on, .5. That completes the readings that were taken.

Q. Now, Mr. Adams, did you transpose those readings into every day understanding of what they might mean? Can you draw a comparison, for instance, to the Court as to what the reading of .5 might be comparable to in that neighborhood? A. At the same time we took a reading standing ten feet away from an ordinary city street lamp, which reads .5 foot candle.

Q. And that, of course, was your highest reading?

A. That was the highest reading.

(The Court) When you say ordinary street lamp, do you mean one on a lamppost or one of the arc lights?

(The Witness) One on a lamppost in a residential district. Actually they were taken in this particular district. Several of them were checked. They all read the same.

Q. And with regard to the reading, for instance, of .0392, what would that be comparable to, Mr. Adams?

A. Well, that is slightly more than full moonlight, moonlight being .02.

Q. Can you tell his Honor what is considered proper foot candle light for normal reading, with proper protection to the eyes? A. Yes, sir. It is generally accepted now 30 to 50 foot candles.

Q. That is, 30. rather than .03 A. That is 30.; 30 to 50.

\* \* \* \* \*

(Tr. pp. 1123-1125):

Q. Can you illustrate further to the Court, by way of another comparison, the light from the street lighting code of the Illuminating Engineer's Society, various illustrations from vehicular traffic? A. Yes, sir.

Q. Would you give further illustrations to the Court so that he can understand in common every day language what these figures might mean to us? A. There is a code of street lighting prepared now, sponsored by the Illuminating Engineering Society, which is a national organization very much the same as the A.S.M.E. or the American Institute of Electrical Engineers. For very light vehicular traffic, which means under 150 cars per hour, and for light pedestrian traffic, the Code requires an average of .2 foot candles from curb to curb. That is in residential districts.

In what is called light vehicular traffic which is from 150 to 500 vehicles per hour, and for light pedestrian traffic, the code sets .4 foot candles. With medium vehicular traffic, which is classed as from 500 to 1200 vehicles, for a light pedestrian traffic, .6 foot candles. With heavy vehicular traffic, that is over 1200 vehicles and light pedestrian, .8 foot candles. Then it goes on up to very heavy pedestrian traffic and very heavy vehicular traffic, up to as high as 1.2 foot candles on the brightest illuminated streets.

Q. On this very night when you made the tests, there were no leaves on the trees, were there? A. No.

Q. There were trees in the vicinity of a number of these locations from which you took readings, were there not? A. Yes.

Q. Had they been in leaf, is it a fair statement to say it would have reduced the reading from these lights? A. In some instances I think it would.

\* \* \* \* \*

(Tr. pp. 1127-1129):

### CROSS-EXAMINATION

By Mr. Driver:

Q. Mr. Adams, the night you made the test was the night of the day this trial started? A. I think that is the truth, March 8th.

Q. Of this year. When you made your tests you made them all at street level? A. The instrument was held at eye level.

Q. Your eye level, do you mean? A. Yes.

Q. In feet what would that be? A. I don't know exactly my eye level but, somewhat over five feet and less than six.

Q. Was the meter held parallel to the ground or perpendicular or what? A. Held forward to the slant.

Q. By that you mean what? A. Perpendicular from the rays to the light.

Q. Are you familiar with the number of lights at the Stadium and the candle power of them? A. I am familiar with the number and I am familiar with the wattage in each reflector, but I am not familiar with the candle power.

Q. Will you tell the Court how many lights are there in those batteries up on the parapet of the Stadium, in each one? A. There are four towers with thirty-seven lights each and two towers with fifty-six lights each.

Q. And is the wattage of each of those bulbs the same?  
A. I understand it is. I understand they are 1,000 watt bulbs.

Q. So that in total there are 262,000 watts? A. 260,000 or 260 kilowatts.

Q. How much candle power does each of those lights have? A. I couldn't tell you that.

Q. Can you approximate it? A. No, sir. I am not familiar with the flood lights used, that is, the particular make and the condition. I can tell you what you get from a new flood light in candle power.

Q. What would that be? A. With a new flood light, with 1,500 watt lamps, you would get about 170,000 candle power in a maximum beam.

(Mr. Kemp Bartlett) He is asking you about a 1,000 watt.

(The Witness) I told you I cannot give you that information. Somebody more familiar with the flood light will have to give you that. I can't.

Q. You did not check that? A. No, sir. I had no reason to.

\* \* \* \* \*

(Tr. pp. 1130-1136):

Q. And you arrived at the Stadium on March 8th, about what time? A. Around eight o'clock.

Q. And you stayed there until when? A. I think it was after ten we left.

Q. Did you have some assistants working with you?  
A. Yes, sir.

Q. And you took each of these readings yourself? A. No, sir.

Q. Did you take any of them yourself? A. I took three readings, with a foot candle reading from a street lamp.

Mr. White took the readings of the Macbeth illuminometer. I observed the readings.

Q. You were with him when he did that? A. Yes, sir.

Q. You have observed also in the area surrounding the Stadium, with respect to these lights, that the lights sit up high on the parapet and some of the property is lower than the Stadium and considerably lower than the lights. Did you observe that those lights throw a light over top of some of the houses, and then on to the other houses beyond them? A. Well, it is true that the sight line is a good distance away.

Q. How far away is that from the Stadium? A. That is as far as you can see a light, that is what I mean by sight lines. As long as you can look at a light and see it, that is the sight light, and that may be down as far as three blocks, I guess.

Q. No further than that? A. Yes, possibly. You can see a bright object for miles at night; if nothing interferes, of course, physically interferes.

Q. When you took these readings you did not ask any of the residents if you might go in their homes and take one, did you? A. No, sir.

Q. Would you be willing to do that? A. Yes, although I can say this very reading we took within a direct sight line of a bank of lights.

Q. And you would be willing to go into Mr. Green's property and inside of his house when these lights are on and take a reading and give the Court the benefit of that? A. I should say so.

Q. And also the lights on 36th Street or the houses along 36th Street? A. Yes. I think as long as you are within a direct sight line of a bank of lights, it is not going to make too much difference whether you are a little

low or a little high because it is an element of distance from the light; as long as you can see it.

Q. Do those lights—very few of us here are electrical engineers, so if I ask questions that may seem not too certain with technical knowledge, you will understand—do you tell us that these lights spill over the Stadium, in other words, that they show outside of the Stadium or not? A. Yes, they do. It is spilled light.

Q. And that goes out of the Stadium for an area in blocks. In depth how far is that? A. As I said before, you can see a pin point of light at night for miles. If you go miles away from that light you can see it, but the intensity would be negligent. It varies as the distance varies. The sight line of those lights can be seen from a considerable distance.

Q. Well, the diffused light that the average fellow would say that the lights can be seen out of the Stadium, tell the Court how far in blocks you could observe that diffused light outside of the Stadium? A. I really don't know. I did not check it.

Q. Would it be one block? A. Oh, of course, you could see it one block. We actually saw within these places we measured and, of course, you can see any place you can see a light. Do you get what I mean by seeing a light?

Q. Yes. A. Actually seeing the brightness of a light.

Q. Yes, I think I understand. A. I am talking about this diffused light. Are you talking about sky brightness?

Q. I am talking about the diffused light. Can these lights at the Stadium, whether reflected by the sky or house, or whatever they are, can they be seen for two or three blocks around the Stadium? A. Yes.

Q. Is the Weston Foot Candle Meter a generally accepted accurate light meter? A. It is very definitely



so within its range. Sometimes you cannot read very low values with it.

Q. Can you tell us what the light is in this court room right now? A. Yes. I have measured it.

Q. Do you have a light meter? A. Yes.

Q. What is it? A. I think it is approximately on this table about eight foot candles.

Q. Did you measure it up on the Judge's Bench? A. I did not, sir, no.

Q. Will you take this and tell us what it is? A. Yes, sir.

(The Court) Does the fact that the meter is not level affect it?

(The Witness) Well, that has something to do with it, the angle of it. This reading is 6.0.

Q. And what is it down here, sir (indicating trial table)? A. This is reading about 8 foot candles.

(Mr. Harlan) Your Honor, would you permit us to put the lights out and make a test?

(The Court) Certainly.

(After extinguishing lights.)

(The Witness) That is about 4.5.

(Mr. Harlan) Now, read it on the Judge's Bench.

(The Court) What was it on the trial table?

(The Witness) 4.5 (After measuring at Bench.) This is exactly 2 up here.

Q. So that on the Judge's Bench right now it is 1 and one-half times—at Mr. Green's house at 1200 E. 33rd, it is one and a half times as bright as it was at the Judge's Bench just now?

(The Court) At Green's house where?

(Mr. Driver) 1200.

(The Court) Up here it is 2.0, Mr. Green's, with the lights on was—

(The Witness) .308.

(The Court) My light is roughly six times that of Mr. Green's. My desk is 2.0 and Mr. Green's house is .308.

Q. Have you examined actually, the actual lights themselves, Mr. Adams? I want to ask you whether they are or can be focused. A. If you mean have I examined them individually, I will say no. They can be aimed.

Q. Can they be focused? A. I can't answer that. I think there is a standard beam characteristic and the center of that beam can be aimed.

\* \* \* \* \*

(Tr. pp. 1137-1139):

Q. And you are also sure that all of the lights in the Stadium were on? A. After we had made the test we went back and inside of the Stadium, and I glanced around at all the towers. They seemed to be all on, burning.

Q. And you saw that from the inside of the Stadium? A. I went inside of the Stadium and looked at them.

Q. And your positive testimony is that all the lights were lit and were all burning? A. All towers were illuminated; yes, sir.

Q. Were the lights focused down on the playing field or up over the top of the Stadium? A. I think they were aimed for football.

Q. They were aimed for football when you saw them and the night you took your tests, is that right? A. Yes, sir.

Q. And when you say they were focused for football, do you mean by that they were focused down on the playing field rather than across the top of the Stadium, don't you? A. That is right. They were aimed down on the playing field.

Q. So, therefore, the light readings which you have taken are much lower than they would have been had these lights spilled outside the Stadium to a greater extent? A. It may not be.

Q. It could be, though, couldn't it? A. It could be, but generally the lights would be aimed down on the playing field also for baseball.

Q. In all fairness, Mr. Adams, I want you to tell the Court this. When you took your tests you did not simulate the same kind of circumstances that exist there when the baseball games are being played in so far as having the lights put in a certain direction where they were when baseball was played? A. That might be true. All I can say is that I think they were aimed for football. That is what it looked like to me.

Q. And you have not been back to make any tests of the lights in any other manner? A. No, sir.

\* \* \* \* \*

(Tr. pp. 1142-1143):

#### RECROSS-EXAMINATION

By Mr. Driver:

Q. Mr. Adams, just one further question. Were the parking lot lights on when you made your test or just the lights up on the parapet? A. I cannot answer that really. I did not notice the parking lights on. I did not notice that.

Q. Mr. Adams, you are in business for yourself, are you, sir? A. I have some partners; yes, sir.

Q. Have you any pending business with the City of Baltimore concerning the lights at the Stadium? A. Yes, sir.

### REDIRECT EXAMINATION

By Mr. Biddison:

Q. What is your capacity with the City, Mr. Adams, in that regard? A. Our firm has been retained by the firm of Faisant and Kooken to design mechanically an electrical service for the new Stadium.

\* \* \* \* \*

(Tr. pp. 1144-1146):

THOMAS P. BALDWIN,  
2633 Roland Avenue

### DIRECT EXAMINATION

By Mr. Harlan:

Q. What is your occupation? A. Fire Lieutenant, Baltimore City Fire Department.

Q. Are you assigned to the Baltimore Stadium or were you during 1947? A. Yes, sir.

Q. For certain games? A. Certain games; yes, sir.

Q. You were not there at every baseball game? A. No, sir.

Q. I think you were there approximately nine of the baseball games? A. Well, that I don't know. I would have to get the detailed reports in order to check.

Q. There are other firemen beside you that are assigned to these games, are there not? A. Yes, sir.

Q. Approximately, how many are assigned to each baseball game? A. Six firemen and myself.

Q. And what is the purpose of your assignment? A. Fire prevention and fire protection.

Q. For a night baseball game, Lieutenant, when did you go there? A. I would say about seven-thirty.

Q. And when did you leave? A. Well, approximately from 10:30 to 11 o'clock, in that time.

Q. Is the ball game over when you leave? A. Yes, sir.

Q. Are the lights turned out there, Lieutenant? A. I can't recall an occasion when the lights were not out when I left.

\* \* \* \* \*

(Tr. pp. 1146-1147):

Q. I show you this, Lieutenant, and ask you what it is. A. This is a detailed report of the Baltimore Stadium baseball games.

(Mr. Harlan) I offer it in evidence.

(Mr. Driver) I object to it.

(Tr. pp. 1148-1149):

(The Court) I will give you an exception and admit the report. It is not necessary to read every one of those items. Just have that marked and put in evidence.

\* \* \* \* \*

(Tr. p. 1151):

#### CROSS-EXAMINATION

By Mr. Driver:

(Tr. pp. 1151-1152):

Q. I notice that all of these reports show that when you arrived at the Stadium you arrived precisely at 7:30? A. Yes, sir.

Q. When you left, you left at times varying from precisely 10:30, in some instances, 10:45 in some others, and 11 o'clock in some others? A. Yes, sir.

Q. And you couldn't have left a few minutes after 11 or a few minutes after 10:45? A. The time I have on

those reports are the times I put on when I left there. I looked at my watch.

Q. And it is just a coincidence, I suppose, that they are so precise. I mean you actually did leave at those exact times, time and again, and arrived at a certain time? A. It might have been a minute or two one way or the other.

Q. But you do not reflect that on these reports, do you? A. Probably my watch could be fast or slow.

\* \* \* \* \*

(Tr. pp. 1157-1160):

ELMER W. MORROW

DIRECT EXAMINATION

By Mr. Harlan:

Q. What district are you connected with? A. Third Battalion.

Q. Is that in the area of the Stadium? A. That's right.

Q. You are assigned to the interior of the Stadium, as was Lieutenant Baldwin? A. Exactly.

Q. You don't go out there every night, do you? A. No, we alternate in the district.

Q. I think you were out there some nine times last year? A. Maybe more and maybe less.

Q. What time did you generally arrive there for night baseball games? A. The detail commences at 7:30.

Q. Were those games by the Baltimore Baseball Club? A. Baltimore Baseball and Amateurs.

Q. What time, on an average, did you leave the ball park? A. Well, I think if you look at those reports, you will see it says anywhere between 10:30 and 11:30.

Q. What are your duties? A. Fire prevention is the most important reason we are there and also fire extinguishing in case we find any.

Q. When you leave the Stadium are the big battery of lights out? A. Yes.

Q. I show you these reports and ask you to identify them. A. They are mine.

(The Court) In your own handwriting?

(The Witness) Yes, sir.

Q. These are official reports of the Baltimore Fire Department? A. That's right, they are official.

(Mr. Harlan) I offer these in evidence.

(Mr. Driver) We object.

(The Court) Same ruling.

(Papers referred to offered and received in evidence as Defendants' Exhibit 14.)

Q. I would like to call your attention to one report made on August 9th, 1947. Is that your handwriting? A. That's right.

Q. Tell his Honor who played in that baseball game. A. United States All Stars versus Canadian All Stars.

Q. What time did you leave there? A. 11:30.

Q. I ask you to look at the other reports and tell me the latest time you left from the ball park when the Baltimore Orioles were playing? A. 11 P.M.

Q. And in each and every instance the big battery of lights was out when you left? A. That is true.

\* \* \* \* \*

(Tr. pp. 1161-1171):

H. M. WHITE,  
7 Inglewood Road

DIRECT EXAMINATION

By Mr. Biddison:

Q. Mr. White, where are you employed? A. Gas and Electric Company.

Q. How long have you been employed there? A. Since 1923.

Q. And in what capacity are you employed there, what position do you hold? A. I am assistant lighting engineer.

Q. For how long have you been employed as assistant lighting engineer? A. Since 1925.

Q. Prior to that you were a graduate of what school or university? A. Cornell University.

Q. What division of that university? A. I hold an M.E. degree.

Q. You hold a degree of mechanical engineer? A. Yes.

Q. You are the Mr. White referred to by Mr. Adams when he told the Court about the readings taken at the Stadium? A. Yes.

Q. You are the Mr. White that took the readings that he said he observed, is that correct? A. Yes, sir.

Q. Were you in Court when Mr. Adams testified to the various readings at the various spots around the Stadium? A. I was.

Q. Were those readings correctly stated to the Court? A. They were correct.

Q. And they were the readings actually taken? A. That's right.



Q. What type of instrument did you use? A. We had a Macbeth Illuminometer made by Leeds of Norfolk.

Q. During the course of your employment by the Gas and Electric Company, have you had occasion to work on the lights at the Stadium? A. I have.

Q. What has been your personal connection with the lights at the Stadium? A. Merely advisory work on adjustments for specified plays.

Q. Would you describe to the Court the type of lighting at the Stadium, please? A. The type of lighting is 260 1,000 flood lights on the permanent towers. They are 25 to 30 degree beam spread enclosed flood lights. The beam is directed into the playing field for football, the towers on one side. Generally you will find that the beam will edge on the playing line or the side line close to the tower. The beam starts there and the beam will carry out to about three-quarters of the width of the field, indicating that it is about 25 to 30 degree beam spread.

Q. With regard to the direction of your beam or the focusing, it is not exactly focusing, is it? A. It is directional primarily.

Q. It is really an aiming, rather than a focusing? A. It is aiming.

Q. With regard to the aiming of the lights, the other night, the 8th of March, I think it was, when these light tests were made, were the lights aimed at that time in the same direction as they are aimed during the baseball season? A. No, they were not.

Q. In what different manner are the lights aimed during the baseball season than they were the other night when you took these tests? A. During the baseball season the lights on the higher towers—there are two temporary towers on the field and I am excluding them for the moment—the lights of the high towers are

directed generally toward the infield of the diamond. In other words, they are directed northward. Of course, the lights of the north tower are directed toward the south, again aiming toward the infield of the ball diamond.

Q. Now, that difference in aiming for football as contrasted with the aiming those lights were aimed during the baseball season, during the baseball season would that aim create a greater diffusion of light on the outside of the Stadium to the east and west of the Stadium than during the football season? A. There should be less spill east and west when aimed for baseball. In other words, most of your light is directed up toward the diamond.

Q. Now, when aimed for baseball, how about the north of the Stadium in regard to the spill? A. North of the Stadium—

Q. As contrasted with the other night? A. As contrasted with the other night, would undoubtedly give more spill.

Q. During the baseball season? A. During the baseball season.

Q. Did you have occasion to examine the lights inside of the Stadium as to whether or not they were all on on March 8th when this test was made? A. When I observed them, they were all on except I believe there was one burned out lamp on the southeast tower. There might have been one or two others, but I think as far as percentage goes, it would be minor.

Q. During the baseball season it is not unusual for one or two or more lights to be out, is it? A. It could probably be so, yes.

Q. With regard to the lights of the baseball towers inside of the Stadium, did you observe whether they were all on or not? A. Yes, they were all on.

## CROSS-EXAMINATION

By Mr. Driver:

Q. Were the lights on the parking lot on when you took your tests the other night? A. I am not positive of that. I understood everything was turned on and I did not observe the parking lights at that time.

Q. You are unable to tell the Court whether they were on or off? A. I am unable.

Q. The lights which you checked the other night were pointed or aimed for football use at the Stadium and not for baseball? A. That's true.

Q. And when the lights are aimed for baseball use at the Stadium they are aimed higher than they are for football, aren't they? A. The limit is they are turned down as far as they will go because of a structural difficulty on those towers. In other words, they are bent down as far as they will go, and if you will observe the light in the U of the Stadium, that is, in the seats, still get no direct beam.

Q. Are you telling the Court that there is some structural defect in the towers which prevent putting the lights down in order to keep them from spilling out of the Stadium? A. What I maintain there is that on the middle tower on the west side, we attempt to use that tower to hit first base. In other words, in the adjustment we tried to get the beam down on first base. That middle tower will not take—in other words, we can get some of the beam down near first base but cannot get first base right in the beam. It goes out and hits about the pitcher's box. That beam, as I say, is still confined to the playing area. In other words, the lights are down.

(Mr. Kemp Bartlett) As far as they can go.

(The Witness) As far as they can go.

Q. And you could get them no further? A. I cannot hit first base with them.

Q. No matter what the difficulty is, they are structurally made so that you cannot get them down any lower? A. That's true.

Q. There is a considerable spill of light from those lights outside of the Stadium playing field, isn't there? A. There is spill, yes.

Q. And in the summer time those lights are focused toward the north from the south, focused towards home plate on the playing field, aren't they? A. Well, they are focused generally toward the infield.

Q. And the result of that is, that the houses on 36th Street get the brunt of it, is that correct? A. They may get a little more spill northward. Make no mistake, though, you still are lighting the outfield. Of course, the outfield is generally taken care of by the two southernmost towers, and there those beams generally are hitting the outfield.

Q. Those lights cannot be focused in the sense of putting a spot on the field, can they? A. There is a limited focus arrangement on it. There isn't too much adjustment though. That is the reason I give you between twenty-five and thirty degree beam. I don't know that they are all twenty-five and I don't know that they are all thirty, but there is a limitation in them.

Q. What is the foot candle measurement of those lights when they are on full tilt, at the light? A. Do you mean right at the light itself?

Q. Yes, on a 1,000 watt bulb. A. I don't know what that would measure.

Q. You noticed, didn't you, sir, that the spill of these lights varies to some extent with the contour of the land surrounding the Stadium; in other words, on the east side of the Stadium there are some houses that have

the lights shining on them and there are some others that the light shone over and hit the houses a block or two away; did you notice that? A. Yes. In other words, that spill comes out depending upon what obstructs it. In other words, a house close by may obstruct the light down upon the next house down low, but the higher house will pick it up.

Q. In an area say about a block or two, is this diffused light you speak of spilling out from the Stadium readily noticeable? A. At a block away?

Q. Yes. A. You will discern a spill; surely.

Q. Do you know when those lights were last cleaned, Mr. White? A. I am not positive. It seems to me they were cleaned at the beginning of the last baseball season, but I think Mr. Armstrong can answer that better.

Q. You did not determine that before you made your tests? A. I did not. I can tell you, though, that the flood lights themselves are in bad shape.

Q. Are in bad shape? A. They are not giving as much light as they gave upon installation.

#### REDIRECT EXAMINATION

By Mr. Biddison:

\* \* \* \* \*

(Tr. p. 1173):

(The Court) Have you any improvement to suggest to the lighting system?

\* \* \* \* \*

(Tr. pp. 1173-1174):

(The Witness) I don't feel they would be any improvement for the people outside of the Stadium, that is, in the lights as such.

(The Court) You mean you don't think there is anything you can suggest.

(The Witness) There are a lot of things to suggest in the way of a different system, yes, but in this present light, no.

(The Court) There is nothing you can suggest about the present system?

(The Witness) With the present system the only thing I can suggest is this; that we get new reflectors in the present system and that means you might as well get a new flood light. Resilvering a reflector will cost almost as much as a new flood light.

\* \* \* \* \*

(Tr. pp. 1174-1176):

By Mr. Kemp Bartlett:

Q. I would like to ask you, Mr. White, a few questions about those inside towers that you have said are there.

A. The inside towers are designed purely for the infield of the ball diamond, to intensify a more active play.

Q. And they are the two steel towers which were put up at the north end of the Stadium on the playing field?

A. That is right.

Q. And carry batteries of lights on the top of them?

A. Yes.

Q. Are they a different kind of lights? A. They are a different type of flood.

Q. And they are focused down, almost directly down?

A. Almost directly down into the infield; yes, sir.

Q. Is there any spill from those lights? A. There is definitely spill from those. They don't shoot a shaft or beam as the other lights do on the high towers. They splash light over a wide area.

Q. And splash it from above down on the infield? A. That's right. Those towers are a good bit lower and you get a wide coverage from those, a low altitude.

Q. Do those throw light over the parapet of the Stadium? A. There is a little light that will get past the Administration Building with those temporary towers.

### RECROSS-EXAMINATION

By Mr. Driver:

Q. Mr. White, did you design these lights? A. No, I did not design the present lights in the Stadium.

Q. Who did design them? A. Our office. I did not do it personally. There were two other gentlemen in our office.

\* \* \* \* \*

(Tr. pp. 1176-1177):

Q. Were they designed for baseball or football? A. They were designed for any sports activity that you may have at the Stadium. Essentially at the time it was probably football. I don't know what they were designed for.

Q. They are not satisfactory or adequate from a baseball viewpoint? I am not talking about the neighbors' viewpoint, but from the baseball viewpoint. A. From the baseball viewpoint the demands recently have been higher and higher. In other words, when that job was designed the intensities were considerably, reasonably high, but in the last few years the intensities have gone way up.

Q. And by the last few years you mean of July, 1944? A. Well, as I say just when—

Q. Since the Orioles have moved into the Stadium? A. Well, no, it has not necessarily been. In other words, there have been some new systems come along recently and their intensities have gone quite high.

Q. The intensity demand for this Stadium has increased materially since July of 1944? A. The trouble was in this Stadium the intensity depreciated. In other

words, at one time we got as high as 30 foot candles with the existing towers and now it is down to 15, as I say, due to the depreciation of the reflecting equipment. So it had to be supplemented in order to bring it up where you could play baseball. You can play baseball with 15 foot candles, but it isn't so good. It isn't as fast as you would like it.

JOHN A. NOONAN,  
2800 North Howard Street

DIRECT EXAMINATION

(Tr. pp. 1178-1179):

By Mr. Harlan:

Q. Mr. Noonan, by whom are you employed? A. By the Park Board.

Q. What is your job? A. Principal foreman in the Electrical Department.

Q. On the night of March 8th, 1948, did you turn the lights on at the Stadium? A. Yes, sir.

Q. Did you turn all of the lights on? A. Yes.

Q. Including the lights on the parking area? A. Yes, sir.

CROSS-EXAMINATION

By Mr Driver:

Q. When you put the switch on to put the lights on, did you go around to check to see whether they were all lit? A. No, I did not.

(Mr. Driver) That is all.

(The Witness) A man did go around.

(Mr. Harlan) Who did?

(The Witness) Mr. Ricks, a man that works with me.



(Mr. Kemp Bartlett) Mr. Noonan, they stayed on all during the time the tests were made, did they not?

(The Witness) Yes, sir.

\* \* \* \* \*

(Tr. pp. 1197-1198):

HERBERT E. ARMSTRONG

3302 North Calvert Street

DIRECT EXAMINATION

By Mr. Kemp Bartlett:

Q. \* \* \* You are business manager of the Baltimore Baseball and Exhibition Company? A. I am.

Q. And became such when? A. In 1943.

\* \* \* \* \*

(Tr. p. 1205):

Q. At the same time, more lights were put up in the infield, were there not? A. There were two light poles remaining from the fire at Oriole Park and we moved them over to the Stadium and used them to help light the infield, where we needed a very strong concentration of light.

\* \* \* \* \*

(Tr. pp. 1207-1209):

Q. These poles were placed to the north of that line about forty feet from the third base line? A. Yes.

Q. What are they like? A. Well, they are steel poles about 65 feet high, with banks of light at the top of each pole. Each bank carries, or did carry until 1947, 16 lamps. We complemented the number in 1947 by adding 10 smaller lamps at the bottom or just below the bottom row at each bank.

Q. What is the wattage of each of those bulbs? A. Those bulbs are 1,500 watt bulbs.

Q. Are they in reflectors? A. They are enclosed in cone like reflectors.

Q. Describe those to the Court, will you please? A. They are not unlike the speaker here, a cone like reflector. The light cannot go out the rear unless there are cracks in the reflectors. And they shine or, rather, reflect light in the usual fashion. I don't know how else I can describe it other than to say a cone shape.

Q. In which direction are they aimed? A. Those particular lamps are aimed toward the Administration building. In other words, toward the south and also down on to the diamond.

Q. They are forty feet back from the third base line and where is it you want to get the light from them? A. When the poles were put in, the engineers, Mr. Stockhausen, of the Central Electric Company, was the man we employed to do the job, and Mr. White, of the Gas and Electric Company, who has already testified, suggested that the poles were placed 30 feet from the foul lines. We felt that was entirely too close and I was willing to sacrifice a certain amount of light to get them far enough away from the foul line so it would not be hazardous to the various players. In 1947, prior to the opening of the season, after negotiations with the Naval Academy, we arranged to move one of the poles back about 60, possibly 70, feet from the foul line. That is the westernmost pole, so to speak, of the two.

Q. And the purpose of those lights is to get light on what part of the playing field? A. Home plate and the pitcher's box particularly. We need a very strong concentration there so that the batters can see the ball.

\* \* \* \* \*

(Tr. pp. 1209-1211):

Q. Does any light from those two poles and reflectors shine outside the Stadium? A. Well, we went all around the Stadium to look the situation over in that

respect and we found that there was one spot corner Ednor Road and 33rd Street where there was just a slight spill from one or two lights at the top of one of the banks.

Q. That is a higher level ground at 33rd Street and Ednor Road, is it not? A. Possibly so. There is only one spot there. We could not find any other or any place around the Stadium where those lights were visible.

Q. You cannot see those lights over the top of the Stadium at any place? A. No, only one or two or a few bulbs at the most.

Q. Now, tell Judge Mason about the six steel towers which have been testified to on the walls or top or parapet of the Stadium? A. Mr. White and Mr. Evans described them in professional detail. The height of the light bulbs above the ground level was not mentioned. I might add they are from about 110 feet above the level of the playing field of the Stadium. They may be as high as 120 feet above, but I think the official height is 110 feet, although I am inclined to think they are somewhat higher.

Q. Were those lights there when you went to the Stadium on July 4th, 1944? A. Those lights were there.

Q. Has anything been done to them since? A. Other than the fact we try to keep them in the best condition possible by cleaning them to such a degree as we can and by supplying new lights from time to time to obtain the maximum intensity of light on the playing field, where our light intensity or the amount of light we are getting, I suppose you would say, is adequate, but certainly it does not meet the requirements—it does not compare with the modern lighting systems they are putting in in that respect. I think we have an average foot candle, if that is the technical term, of about 23 or 25, whereas at the Yankee Stadium it would be around 200. You can see we are way below.

\* \* \* \* \*

(Tr. p. 1213):

Q. I am coming back to the operation of the lights, but I want to ask you now what sort of a public address system did you find in the Stadium in July of 1944. A. The public address system was on top of the Stadium.

Q. By top of the Stadium, where do you mean? A. On top of the Administration building I mean.

\* \* \* \* \*

(Tr. pp. 1214-1215):

Q. Did you use that one for baseball announcements? A. We did not.

Q. Why? A. The baseball diamond was placed in the northern end of the Stadium; in order to provide sound for the people who sat in that area of the Stadium, it would be necessary to throw those sound waves so far they would be carried right over the top of the Stadium into the area north of the Stadium. There had been complaints before, as we understood it, about the loud speaker system as it was, and we wanted to try to correct that by putting two clusters of horns on the two light poles and directing them down at the very base of the Stadium in the area where the maximum number of fans sit or sat.

Q. Mr. Armstrong, did you rent a system, a public address system? A. We rented a system from the same concern who took care of the horn system for the Park Board.

\* \* \* \* \*

(Tr. p. 1216):

Q. Mr. Armstrong, is that a smaller system, with smaller horns, than the one that was used for football? A. Well, in the year we got one or two complaints about the loudness of the horns, there was a new company—a new company had installed the thing and I personally investigated the loudness of the horns and went out to the 36th Street area on three successive nights.

\* \* \* \* \*

((Tr. pp. 1217-1218):

Q. Now, then, when you went out to the Stadium in 1944, did you take a look at the parking lots? A. I did.

Q. I understand that the parking lots never was licensed or leased or in any way given to the Oriole Baseball team or the Baltimore Baseball and Exhibition Company to control; is that right? A. That is correct.

Q. Back in 1922, when you refereed a game out there, had you seen the parking lots? A. I had.

Q. And had you ever had occasion to park on them between 1922 and 1944? A. Yes, on many occasions.

Q. Can you tell his Honor the condition of this parking lot? A. I would say that they were—the present condition is about the same as it was then.

Q. They always were parking lots, were they not? A. They were always parking lots.

Q. And whenever the Stadium was used and people came in automobiles, people parked there, didn't they? A. That is right.

Q. And you saw the parking lots between that time in 1922 to 1944? A. Yes, sir.

Q. And your testimony is that they were about in the same condition then as they are now? A. Yes, sir. I might say those parking lots are not only used for parking purposes, but are used for soft ball games and general athletics played by the boys and young men, and even girls of the neighborhood.

\* \* \* \* \*

(Tr. p. 1219):

Q. They always were part grass, part gravel and part dust, is that right? A. That is right.

\* \* \* \* \*

Q. What time are the lights turned on for the playing of baseball? A. That varies with the type of day.

Q. Who has control over it? A. The umpire announces when the lights are to go on. He instructs the electricians to turn the lights on.

\* \* \* \* \*

(Tr. p. 1220):

Q. Do you know what time that is with respect to twilight or darkness? A. I would say about three-quarters of an hour before darkness. I have never thought of the thing before, but just offhand, I would say about three-quarters of an hour before darkness, and, of course, that would vary a great deal according to the day. If it happened to be a cloudy day—

\* \* \* \* \*

(Tr. pp. 1222-1224):

Q. Who turns off the lights? A. The electricians.

Q. When are they turned off with respect to the close of the game? A. I would say they are turned off about fifteen minutes after game time or about the time it would take a person to walk leisurely from a seat out to the outside of the Stadium.

Q. Are they all turned off at once after the crowd has walked out? A. They are turned off one after another, immediately one after another. In other words, they are turned off all at once as close as they can.

Q. And as soon as spectators have left the stands after the game, the lights are turned off? A. Yes.

Q. And none kept on beyond that time? A. They are not.

Q. How long does it take people to leave the stands after the game? A. I would say it takes the average crowd about fifteen minutes. I checked that with people on the Park Board, which has been in the habit of investigating such matters, and they agreed that was about the time; fifteen minutes.

Q. Of course, in your long experience in baseball you have knowledge how long it takes to play a game of baseball. Have you kept any figures of playing ball out here at the Stadium? A. I took the figures, the closing time of the various games from the Park Board records and found that the game, the average game was played in two hours and nine plus minutes. A little short of two hours and ten minutes. That meant starting at 8:30, the average game was over approximately twenty minutes of ten.

Q. No, that would be twenty minutes of eleven. A. I mean twenty minutes of eleven. Excuse me.

Q. And the lights would be out, you say, fifteen minutes after that? A. Approximately so.

Q. So on the average time, starting a game at 8:30 at night, the lights are out five minutes of eleven? A. Yes.

Q. Are there many games that go longer than the average? A. One game went beyond eleven o'clock last year. That closed at 11:10. I don't recall the particular game, but apparently it was one of those wild last inning rallies, at which both sides would have been at bat a long while. Because of agreement, we don't begin any inning after a quarter of eleven.

\* \* \* \* \*

(Tr. pp. 1234-1237):

Q. Mr. Armstrong, you were telling the Court how the public address system has been used by the Orioles. Now, I ask you if you received any complaints from persons who resided in the neighborhood about the use of the loud speaker system? A. We had one or two complaints about half way through the season.

Q. Prior to that, had you attended a meeting at which Mr. Charles Evans was present, representing some of these complainants? A. Yes, I did.

Q. And was anything said there about the loud speaker system? A. Yes. Something was said about the system, use it as little as possible, cutting down on its loudness. That was one of the things brought up at that meeting.

Q. Did you attempt to limit the use and cut down the loudness after that? A. Yes, we did.

Q. Then I understand you had no complaints until about the middle of the 1947 season? A. That is correct.

Q. Tell the Court about those complaints? A. When I received the complaints—and incidentally, people who called up did not leave their names at the office—I went up to the 36th Street side from which the complaints came to find out how loud the speakers were and I went up there, as I told the Court yesterday, on three successive nights. I found that the speakers were too loud and could have disturbed the people of the neighborhood to the extent of annoyance, and I cut them down or had them cut down to as great a degree as we could without jeopardizing the reception of the sound inside the Stadium.

Q. Did you also eliminate any of the horns? A. No, I did not. However, when I found that the sound coming to the north was still too loud, I called in the Sound Company, the Henry L. Berman Company, and they sent two men out to correct the situation. They disconnected the speakers altogether that were pointing toward the north, so that the remainder of the baseball season there were no horns pointed in that direction and the system was revised or reduced and adjusted generally.

Q. Was any mark made on the dial where it is set for volume? A. We put a mark on the dial and told the men or the man operating the system not to turn the dial beyond that particular mark, so as to make sure the sound wasn't too loud at any time.



Q. Just when was this that that was done? A. About the middle of June.

Q. Did you receive any complaints from anyone after that about the loud speaker? A. None whatsoever.

Q. How was the sound with respect to whether or not you could hear it in your office in the Administration building? A. Well, we carried on the work in our office, we had done that before, and we could hear the announcements made in the office for the first part of the year, but after that we could not hear them. We carried on the normal work of the office. Mrs. Frames, in her department, counted the tickets, counted the money, we answered the telephone. We, as a matter of fact, could not hear the announcements. We were conscious of the fact that the speaker was on from time to time, but we could not distinguish what was being said over it.

(The Court) Was this in June, 1947?

(The Witness) 1947; yes, sir.

Q. You testified about the condition of the parking lots to the east and west. Tell Judge Mason whether or not the Baltimore Baseball and Exhibition Company has had any jurisdiction or control over those parking lots? A. We have had no jurisdiction or control over the parking lots. However, we did help out in any way we could toward straightening out any difficulty that arose on the lots.

\* \* \* \* \*

(Tr. p. 1238):

Q. What have you noticed about dust coming from these parking lots? A. Well, the dust was there when we arrived on the scene and possibly still is there to a reduced amount.

Q. When was parking discontinued in the park, to the south in Venable Park? A. I think in 1945. Quite a bit of the dust we were troubled with or the people of the neighborhood were troubled with, in the early

days of our being there, was due to the fact that parking was permitted in the area south of 33rd Street. There is a rather sharp incline to go up to the parking lot. In going up the machines ran in low and second and naturally dug up a lot of dirt and the consequent dust that followed it.

\* \* \* \* \*

(Tr. pp. 1260-1261):

Q. Figures were given by Mr. King with respect to the average persons who attend a baseball game in 1947 and 1946. Have you compiled figures as to those averages?

A. I can give you approximate figures. In 1946, average attendance was 11,400. That included games which were played during the playoffs, which brought the attendance up somewhat higher than otherwise. 11,400 included both regular season games and playoff games.

Q. In 1947, the average attendance was about 6,600.

Q. How many persons attended Oriole Games in 1946 and 1947? A. During the season of 1946 the paid attendance was 607,000. The total paid attendance for the season, including a couple of exhibition games, regular season games, and the playoffs, was 722,000. In 1947, the total attendance for the regular season was 358,000, and we played two preseason games for which admission was charged, and I think that brought the total attendance up to approximately 375,000. We played a practice game with the University of Maryland for which an admission was charged.

\* \* \* \* \*

(Tr. p. 1262):

#### CROSS-EXAMINATION

By Mr. Driver:

\* \* \* \* \*

(Tr. p. 1265):

Q. You said that you were primarily interested in checking all of the removal of trash inside the Stadium.

Have you ever seen any trash outside of the Stadium after your games? A. I have, yes, but that has been picked up by the City Departments.

Q. You have never seen it blown around the neighborhood? A. Well, I have seen trash blown around my neighborhood, plenty of it, so far as that is concerned.

Q. I mean trash from the ball games blown around the neighborhood of 36th Street and Ellerslie Avenue? A. Yes, until it has been picked up.

Q. In a substantial or unsubstantial quantity? A. I would say unsubstantial quantity.

\* \* \* \* \*

(Tr. pp. 1266-1267):

Q. This dust problem, Mr. Armstrong, is quite a problem, isn't it? A. I would say it is.

Q. You don't mean to tell the Judge it is not an extremely unpleasant thing for these neighbors out there, do you? A. No. I would say that the dust problem is one that one could complain about. I do say, however, and I still say that the problem or the amount of dust has been greatly reduced because of the application of water and sodium chloride, or whatever solution they use.

Q. You have been out there around the Stadium when efforts were made to alleviate the dust and you have seen what was done? A. Yes.

Q. It does not do much good and it has not done much good, has it, to sprinkle those parking lots with water two or three hours before a game on a hot summer day? A. I would say if the lots were sprinkled late in the afternoon, as was the case many times, that would help a lot in alleviating the amount of dust. If it was sprinkled earlier in the afternoon, it is perfectly possible that the lots were dry and the dust would persist.

Q. There was some testimony here the other day, I don't know whether you heard it, by someone that the sprinkling took place about two or three o'clock in the afternoon. What can you tell us about that? A. I can't tell you a whole lot about that other than to say I have seen carts—it wasn't my particular job to see that the job was done—but in passing by I have seen the cart going around at different times in the afternoon.

Q. Have you observed the dust coming off of those parking lots after the game was over? A. No, I have not. I assume there must be dust there if there are automobiles there. And it is dry. I don't leave there until ordinarily long after the crowd has left the field.

\* \* \* \* \*

(Tr. pp. 1285-1286):

JAMES CAREY MARTIEN  
DIRECT EXAMINATION

By Mr. Kemp Bartlett:

\* \* \* \* \*

(Tr. p. 1286):

Q. And you are in the real estate business? A. I am.

\* \* \* \* \*

(Tr. pp. 1286-1287):

Q. Tell Judge Mason whether your activities have been active or incidental or small? A. My entire time has been devoted to the real estate business for the last fifty years or thereabouts. I have engaged in the purchase and sale of real estate and in the appraising of properties, I have had an active and continuous career in it.

Q. Have you appraised properties for any of the lending institutions of this City? A. We have been for more than fifty years, the appraisers for the Eutaw Savings Bank and more than thirty-five years for the Savings

Bank of Baltimore, besides insurance companies and financial institutions.

\* \* \* \* \*

(Tr. pp. 1287-1288):

Q. Mr. Martien, have you made a factual study of the sales of properties in the vicinity of the Stadium prior to July, 1944 and subsequent to July, 1944? A. I have.

Q. What form has that study taken? A. An investigation of the land records of Baltimore City to determine the prices at which property had been sold prior to July, 1944, involving both the properties of the complainants in this case as also properties of similiar character on the same streets of the neighborhood, and then extending that study into the prices at which property has been sold in the same areas, as close to 1947 as I can find sales of comparable properties.

Q. At whose request did you make this study? A. At the request of Mr. Bartlett; your request.

Q. Will you tell his Honor just how you went about the making of this study? A. I assigned one of the young men of my office who was accustomed to Record Office work to running the index and gathering the records of the transfers of properties in the areas indicated, and bringing to me the results of his studies, from which I compiled my record of the sales prices, dates and character of property sold.

Q. Did you make reference to assessments on those properties? A. I then had the study extended to the assessed value of all the properties involved and compared the assessments with the properties that were in comparison.

\* \* \* \* \*

(Tr. p. 1299):

Q. Mr. Martien, I was asking you about the house of Mr. Frederick Green at 1200 East 33rd Street and I told you that he had purchased that house in August, 1943,

for \$13,500. I neglected to say that he testified that he built a wall in front of it in 33rd Street at a cost of \$900. Have you seen that house? A. I have.

\* \* \* \* \*

(Tr. p. 1300):

Q. In your opinion, has that house increased or decreased in value since July of 1944?

(Question objected to; objection overruled.)

A. It has increased.

Q. By what amount has it increased?

(Question objected to.)

Q. And tell it on a percentage basis.

(Question objected to; objection overruled.)

A. I consider it has increased from 60 to 75%.

\* \* \* \* \*

(Tr. p. 1301):

(The Court) You figure that \$23,000 would be its value today.

(The Witness) I consider that a conservative value.

Q. Let us take the house 920 East 36th Street, owned by Mr. Lee Staples, which he acquired in September, 1941 for \$4,600, subject to a \$120 ground rent; he placing a figure of \$6,675. Are you familiar with that house? A. I am.

Q. Have you an opinion as to its present day value?

\* \* \* \* \*

(Tr. pp. 1303-1305):

Q. 920 East 36th Street, the home of Mr. Lee Staples, which he said he purchased in fee for \$6,675. I ask you if you have an opinion as to the present day value of the house?

(Question objected to.)

(The Court) Didn't he state the cost was \$4,600 with a \$120 ground rent?

(Mr. Kemp Bartlett) \$4,600 subject to a \$120 ground rent.

(The Court) Let us express it that way. Have you seen the house recently?

(The Witness) I have seen it.

Q. Have you an opinion as to its present day value?

A. I think its value today is at least \$10,000.

(Mr. Driver) This is all subject to exception, you Honor.

(The Court) All subject to exception.

Q. Now will you take the property 3534 Ellerslie Avenue, of Doctor C. Vance Hooper, who testified he acquired it June 4th, 1938, for \$5,250 in fee, and I ask you if you have an opinion as to the present day value of that house? A. I have also seen that house and I think its value today is reasonably \$8,500.

Q. Now, the house at 1106 E. 36th Street, owned by Mr. William D. Gentry, who told us he acquired it in May 1929, for \$10,900.

(The Court) Is that in fee?

(Mr. Bartlett) Yes, in fee, your Honor.

A. That property, in my judgment, has not had as great an increment as other properties in this Stadium area. I would say not over 30%, a conservative figure of \$13,000.

Q. Why don't you think it has had the same increment as others in the Stadium area? A. The north battery of the Stadium toilets are immediately across the street from the 1100 block east 36th Street, which, in my opinion, caused a serious menace to the value of the property.

\* \* \* \* \*

(Tr. pp. 1305-1310):

Q. But their presence there you think would indicate that the house is not worth as much as houses not with that presence right in front of it? A. That is right.

(The Court) 30% on that would put it up to what?

(The Witness) \$13,000.

(The Court) \$14,000 practically because it is \$10,900. You say \$13,000.

(The Witness) I put it conservatively at \$13,000.

Q. Now, take the property 1207 E. 36th Street, owned by Doctor J. Willis Guyton, which he testified he acquired in 1939 for \$8,850 in fee. What is your opinion as to the value of that property today? A. 1207 East 36th Street, \$9,800 I think was the price he paid for that property. I think that property today has a value conservatively of \$16,000.

(The Court) Didn't you say the value was \$8,850 in fee?

(Mr. Bartlett) In fee, yes.

(The Court) Value now, \$16,000.

Q. You think the purchase price was \$9,800? A. Yes.

(Mr. Bartlett) I think he testified \$8,850 because that is what I put down.

(Mr. Driver) It isn't what he testified to but what Mr. Martien is testifying to.

(The Court) Whatever the value was he said the present day value is \$16,000.

Q. Now, take the property 1305 Windemere Avenue, Charles H. Whitby, 3rd, who testified he purchased in 1938 for \$6,250, and subject to a \$120 ground rent, which would make it, capitalizing that at 6%, a fee value of



\$8,250. What is that house worth today? A. I would value that house today at \$14,500.

Q. In fee. A. In fee.

Q. Mr. Martien, the house at 3308 Ellerslie Avenue, owned by Miss Jennie S. Hand, she has not testified in this case and gave no purchase price for it. What is your opinion of the value of that house today? A. I don't consider that property is worth over \$12,000.

Q. Take 750 East 36th Street, the property of Mr. Walter K. Harrison. What do you consider its value? A. \$8,500.

Q. My brother reminds me that Mr. Harrison testified that he paid \$6,300 in fee for that. Would that change your testimony. A. I think the \$8,500 is a fair value or reasonable value.

Q. Now, the house on 726 E. 33rd Street, of Mr. Frederick Thomas. What, in your opinion, is the present day value of that house? A. I value that one at \$12,000.

Q. Mr. Wright's house on Lakeside, 1318 Lakeside Avenue. By the way, that was the fee value you gave? A. They are all fee. 1318 Lakeside, \$15,000.

Q. And 1204 Lakeside, Mr. Strebs' house, Leo J. Streb? A. I would also put that at \$15,000.

Q. 1319 Windemer Avenue, that of Mr. Henry G. Spates? A. \$15,000.

Q. 3621 Kimble Road, Mr. Gosnell's house? A. \$10,000.

Q. And 3612 Rexmere, Mr. Van Dusen's home. A. \$10,000.

Q. Mr. Martien, those present day values you have given all show in increment, do they not, over values prior to June or July, 1944? A. They do.

Q. And in what percentage of increment is that? A. In many cases from 50 to 75%. There are some few I carry at a lower increment.

Q. Have you had occasion through your knowledge of real estate values and any study you have made in this case, to make a comparison of that increment with other sections of the city? A. I have.

Q. What other sections? A. I have studied the area immediately east of the Lakeside and Windemere Avenue properties.

Q. What area does that comprise? A. That extends from 35th to Chilton Street and from Alameda to Hillen Road.

Q. In your opinion, is that section of the city comparable to this section around the Stadium? A. It is comparable to the section immediately east of the Stadium.

Q. Have you compared them with other sections? A. I have also considered the value of properties in increment in the Loch Raven Boulevard-Hillen Road section south of Cold Spring Lane, that is known as the development of Macht.

Q. How far is that from the Stadium? A. That is a half mile to a mile.

Q. Tell his Honor whether or not you found any difference in the fractional increment of values in those sections than you found in those around the Stadium. A. I found them relatively in accord with what was around the Stadium. In some cases the Stadium values being higher.

Q. In some cases the Stadium values being higher? A. Yes.

(Mr. Driver) Higher than what?

(The Court) I think he means that the percentage is about the same or in some instances a little higher.

(Mr. Kemp Bartlett) A little higher around the Stadium.

(The Witness) In some portions of the Stadium area the percentage of increment has been greater than in these other two areas I have referred to.

Q. What would you say the increment in residential properties has been in Baltimore generally from July, 1944 to the present day? A. Anywhere from 50 to 100%.

Q. Do I understand it is your testimony that the properties in the neighborhood of the Stadium are standing up in value as well as those in any other part of the City? A. From my observation, and a study of the area, I find that they have.

\* \* \* \* \*

(Tr. p. 1311):

#### CROSS-EXAMINATION

By Mr. Driver:

\* \* \* \* \*

(Tr. pp. 1311-1317):

Q. Do you specialize in industrial real estate? You do, don't you? A. How is that?

Q. Do you specialize in real estate or don't you? A. We have specialized in the sale and lease for years of commercial and industrial real estate. During the late period we have specialized in the appraisal of property of all types in all sections of the City.

Q. You have appraised a great deal of real estate? A. Very many hundreds of millions of dollars worth.

Q. And for the Eutaw Savings Bank? A. Savings Bank of Baltimore, Eutaw Savings Bank, insurance companies, other banks, individuals.

Q. And you appraise for the banks the same way you have appraised these properties? A. About the relatively same basis. When we appraise for the banks we arrive at a very close opinion of values—

Q. By standing on the curb and sidewalk and looking at the house? A. I will answer your question that I have in these cases given you what my opinion is of the conservative value of the properties under the increment I have seen.

Q. And without looking at the inside of them? A. I did not go on the inside.

Q. You don't know how many rooms they have, you don't know what facilities they have and you don't know what condition the houses are in inside; is that correct? A. I can say they are the normal two story brick house of the type that is in the neighborhood.

Q. Are you in the habit, Mr. Martien, of appraising residential real estate without even going inside of the house you are appraising? A. My normal procedure is to go inside of the house, determine its construction and its facilities and condition.

Q. Why do you do that? Why do you normally go inside of the house? A. In those cases I was arriving at the lending value or selling value of the property for a purchaser based on my opinion of value. In this case I am giving you a conservative opinion of my knowledge of the value of the property, which I can give you from an exterior examination, with my definite knowledge of the increment that has occurred over the period referred to.

Q. Before you can appraise the lending value of real estate you have to find out its fair market value, don't you? A. We do.

Q. And that is what you testified to concerning these houses? A. I have testified to what I consider to be the conservative value of the properties.

Q. But you say that while you are normally very particular about going inside of property and looking it over, and you consider that relevant, for instance, when you are appraising for the Eutaw Savings Bank, you did not do it here and you did not make it as relevant. I want to ask you why? A. Because we have found in the last few years, with the inflationary market we are in, before we give an opinion either to the Eutaw Savings Bank, Savings Bank of Baltimore, or some other source, it is our invariable practice to go to the records and compare prices at which comparable properties have been sold, and I did that in this case.

Q. Are you telling the Court it does not make any difference what kind of condition a property is in, it will sell at a certain figure regardless of its condition? A. I am telling the Court in my judgment, the conservative value of these properties, from my observation of their exterior, and I can judge it reasonably well from the general conditions of the neighborhood as I see them, knowledge of the market, knowledge of construction conditions, and so on, I give my opinion of what is the conservative value of these properties.

Q. Ordinarily would you say that a three bedroom, two baths house, will sell a little higher than a three bedroom, one bath house? Isn't that generally true? A. There will be a minor difference; not too great.

Q. You don't know of the facilities any of these houses have and you don't know anything about the interior condition of them, you don't know what type of heat they have, or any of those factors which you normally consider in appraising real estate. A. I have not in these cases, I have testified, been in the interior nor have I ascertained the conditions referred to.

Q. In arriving at your opinion of value which you have given, you said you got some data from the record office in the form of documentary stamps on deeds. A. We did.

Q. And you took that as an absolutely accurate record of the considerations set forth in the deed? A. Within a variance of a few hundred dollars, depending on the amount of the stamps.

Q. And you relied upon that? A. I certainly did.

Q. Did you go to any of the purchasers or sellers to verify those facts? A. I did not find it necessary to do so. I relied there on the stamps shown on the deeds, in compliance with the law.

Q. And you compared these houses which you have enumerated with other houses in the neighborhood, neither one of which you were ever inside of, is that right? A. I have compared them with other properties in the neighborhood from an exterior examination and from a record knowledge of the prices at which various other properties were sold.

Q. And the houses which you compared, these ten or twelve houses, you did not take the trouble to examine from the interior, is that it? A. I did not.

Q. So that you don't know whether you are comparing the properties which you have listed favorably or not, do you? A. I have given a conservative opinion of the value predicated on an exterior examination, supported, as I have testified, from the values shown by stamps of comparable property.

Q. Mr. Martien, is it usual for you to compare a house with another house and use that comparison as the basis for forming your opinion, when you don't know the facts of the interior of either house? A. I can form a general opinion. I can form a more accurate opinion by going inside.

Q. But you did not do that in this case, did you?

(Mr. Biddison) We object Sir.

(The Court) Overruled.

\* \* \* \* \*

(Tr. pp. 1318-1319):

Q. The housing situation in Baltimore has been critical since 1944? A. It has been very critical.

Q. There is a great shortage of houses and, therefore, this in an inflationary market we have? A. Very pronounced.

Q. And you attribute that to the housing shortage?

A. Naturally that has a very material relationship with it.

Q. And it has a very material relationship to the values you testified to in connection with these twelve or more houses? A. It has, and that has been shown by the selling price of other property of similar character.

(Mr. Driver) I think that is all, sir, except I would like to make a motion to strike the witness' testimony.

(The Court) I will overrule it, giving you an exception.

\* \* \* \* \*

(Tr. p. 1320):

DONALD RICKS,  
3736 Elm Avenue

# DIRECT EXAMINATION

By Mr. Biddison:

Q. On the evening of March 8th, 1948, were you at the Stadium? A. I was.

\* \* \* \* \*

(Tr. pp. 1321-1322):

Q. What is your connection with the Stadium? A. Electrician.

Q. On that evening did you have occasion to have anything to do with the lights at the Stadium? A. I did. I was instructed to turn all the lights on used for baseball or football, either one.

Q. Did you turn on all the lights? A. I did.

Q. Did you make an inspection then to determine whether or not all the lights went on after you turned them on? A. I did. After I left the west side, the transformer room, I got in a station wagon, made a complete circle of the lot, and went back to the administration building to await orders to turn them off.

Q. Were all the lights on on the parking lots as well as on the field? A. Yes, sir.

Q. All lights were on? A. Yes, sir.

### CROSS-EXAMINATION

By Mr. Driver:

Q. You made a sort of a windshield inspection, is that it? A. No, sir. It was my object to see that the lights were lit.

Q. You go around in the station wagon to do that?  
A. Yes, sir.

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(Tr. pp. 1323-1324):

JAMES W. H. BEALE,  
1355 Homestead Street

### DIRECT EXAMINATION

By Mr. Robert Bartlett:

Q. Mr. Beale, where do you live? A. I live 1355 Homestead Street, and I have been living there for the past two years. I formerly lived for sixteen years in the parsonage on Carswell Street, 1430 Carswell.

Q. 1430 Carswell. A. 1430 Carswell.

Q. Where is that with respect to the front of the Baltimore Stadium? A. The Homestead parsonage on Carswell Street is slightly southeast of the Stadium, abutting



on the City College property. There is nothing except the City College between the parsonage and the Stadium.

Q. And your present address, how far is that from the Stadium? A. Well, now, I am practically the same distance I just moved around the corner, on the corner of Homestead and Homewood Street, not far away. There again, there is only one row of houses between me and the Stadium. The Eastern High School property is between me and the Stadium, part of the Eastern High School.

Q. How many years have you lived around the Baltimore Stadium altogether? A. Eighteen years. I have know the vicinity much longer, I have know the vicinity about forty-eight years.

\* \* \* \* \*

Q. Have you ever attended baseball games and played in the Stadium? A. I never played in the Stadium, but I have attended most all of the games which have been played there since the Orioles came up from the old 29th Street Oriole Park.

\* \* \* \* \*

(Tr. p. 1326):

Q. Where do you park your car when you go in your car? A. Usually over on the west side in the parking lot on the west side of the Stadium.

\* \* \* \* \*

(Tr. pp. 1327-1331):

Q. What can you tell his Honor about the condition of the parking lots to the east and west of the Stadium, as to how present condition compares with their condition that you noticed prior to July of 1944? A. The latter part of 1947, the latter half of the 1947 season, I think the conditions were much better than they had been at any other time I have observed them. I don't know what they have done or just what has occurred, but there was considerable improvement, it seems to me.

(The Court) What do you mean, improvement in what way?

(The Witness) There wasn't as much dust and the parking lot did not seem to be cut up as much.

Q. Can you tell us what the dust situation was prior to July of 1944 on those two parking lots? A. There has always been some dust ever since I have gone to the Stadium. The southern half of the east side parking lot has never, to my knowledge, had any grass on it. I have passed it hundreds of times, both sides of the Stadium. I can't remember ever having seen any grass on the southern half of the west side or on the east side. Almost the entire parking space on the east side ever since I have known the Stadium, has been without grass.

Q. And that is eighteen years. A. Yes, sir. I have seen the shrubbery grow up, the ornamental trees they planted, and have observed conditions because I was interested in the community and the neighborhood.

Q. Is there any, to you, noticeable difference in the condition of the shrubbery and trees as they exist now around the Stadium as compared with prior to July of 1944? A. I don't think so, sir. I was thinking of that. I heard the complaints and rumors that were circulated, of course. I heard them in the ball park from folks who were attending the games and from others around in the neighborhood, and I drove over around there especially and looked at the shrubbery and tried to think of its condition in previous years and I could find no indications, I did not find any broken limbs or any evidence of any shrubbery having been dug up or broken off or anything of the kind, with the exception of two evergreens in the extreme south end of the east side of the parking space, just where you drive in. I observed there two evergreens. Evidently someone driving in, whether going to football or baseball, but evidently someone had broken off a couple limbs there. That was the only

evidence of any destruction to the shrubbery that I can see, and none on the lots or terraces in the surrounding properties.

Q. Will you be good enough to tell us what your observation has been in connection with rowdyism or any unusual action of people who go to the ball games?

A. As compared with what the games used to be, down, for instance, in the old Oriole Park, way back even in the earlier Oriole days, in the John McGraw games, up from that time, as compared with the games in the various ball parks I have attended, I consider the order unusually good, sir, and remarked about it several times to brother Ministers who were with me there. We talked about it and the crowd seemed to be—there were so many families, apparently men and their wives and children, and so forth, out there. The order was good, in my judgment, unusually good.

Q. Now, in going to and returning home from the Stadium or visiting your friends before or after baseball games, if you have done so, have you noticed any rowdyism on the sidewalks or on the streets? A. No, sir. I couldn't say that I have, no more than I have ever seen just in front of my own home and around there from school children returning from the various schools there in the neighborhood. I would not call it disorder. I could not say that I have, sir.

Q. Would you call it good natured fun or skylarking?

A. Surely, a lot of it after games, of course; slapping each other on the back and laughing, and all that sort of thing. Of course, you see that.

Q. During the eighteen years or sixteen years that you resided at the parsonage and the two years at your present home the lights—you were too far away, I imagine, for the lights to have any effect on you. A. Yes, no effects whatever. I can see the lights very plainly from where I live now and from where I formerly

lived. I can see the lights very plainly but there is no effect from the light at all.

\* \* \* \* \*

(Tr. pp. 1331-1332):

(The Witness) As I am looking right at the Stadium, your Honor, and you can see the Stadium there, of course you can see—I don't know whether you would call it the reflection from the lights, you can see where the lights are there. I know the lights are there and I can see them.

(The Court) If you look up here at the ceiling, you see those globes. If you look down a little bit lower, you will see the illumination from the lights, yet you would not see the lights.

(The Witness) You can see the hoods over the lights, you know what is there. You cannot see the bulbs themselves, of course.

Q. I have not asked you about the loud speaker. You hear it when you go to the Stadium to see baseball games? A. Oh, yes. I hear the announcements; yes sir.

Q. Does the music that is played during the intermission between double headers or while the teams are warming up prior to the actual starting of the game, annoy you?

(Question objected to.)

\* \* \* \* \*

(Tr. pp. 1332-1333):

(The Court) You cannot always tell that. Some people go to the game and leave very mad. Overruled.

A. No, sir, I have never been annoyed. I don't care much for jazz music but it wasn't annoying at all.

Q. Of course, it does not annoy you where you live? A. Oh, no.

## CROSS-EXAMINATION

By Mr. Driver:

Q. How far in blocks do you live from the Stadium?

A. If I should have to go down to Gorsuch Avenue, of course, down Homewood, a short block, and down to Loch Raven, it would be about six blocks; but straight across it isn't that far, by any means.

Q. How far is it? A. Well, I should say between a quarter and a half mile perhaps. It is hard to judge. I wouldn't like to state with any definiteness the distance there in feet. I was just thinking of the number of yards in a mile. It might be a half mile across there. I hardly think it might be that much.

\* \* \* \* \*

(Tr. pp. 1334-1335):

Q. How often did you go to the ball game? A. Well, in the last two years since I have had considerable more leisure, I have attended almost all of the night games.

Q. How about the Sunday afternoon games? A. No, sir, I don't attend them.

Q. Are you in the neighborhood on Sunday afternoons or are you out at Stevenson? A. No, sir. Sunday afternoon I am home. I get home usually about quarter of one. It does not take long to go from Stevenson because I don't preach very long, and I frequently go over in that neighborhood.

Q. Did you ever see any dust come off of those parking lots? A. Yes, I have seen some dust for the past eighteen years.

\* \* \* \* \*

(Tr. pp. 1335-1337):

Q. It is your testimony that the rather frequent use of the parking lots in the months of April, May, June, July and August, during the last three years, has not

had any effect whatever on the grass of the parking lot?

A. I could not say that, sir. There never has been any grass there, to my knowledge, on the portions I talked about.

Q. There has never been any grass there? A. Never that I can recall, sir. I can't recall. I have tried to do it and I can't recall ever having seen any grass on the southern half of the west side parking place, and there might have been a little grass on the northern east side. But very little, indeed, sir, is my recollection. There has always been games going on there. The soil, I presume, is not conducive to the growing of grass. I don't know what else. There has never been any that I can recall.

Q. You live about a half mile away from the Stadium?

A. Yes, approximately, I mean.

Q. Can you hear the loud speaker where you live?

A. I think once or twice in my life have I heard the loud speaker, and I was talking with my wife about that the other day and she said she had also heard it at the same time I heard it, but only twice I can recall in the years I have been there. Then I heard announcements.

Q. Was that in 1944? A. I think it was during the football game, during the Army-Navy football.

Q. You have never heard it during the summer time when the Orioles were there? A. I would not say that. Once or twice or maybe three times I have heard the loud speaker. I am sure once was during a football game and the other two I could not say.

\* \* \* \* \*

(Tr. pp. 1339-1340):

Q. When you go to these baseball games do you usually pay your own way or are you a guest? A. I paid my own way up to within two years ago. Two years ago, when I retired, I spoke to some of the baseball officials and they were kind enough to give me a pass.

Q. Do you still have that pass? A. For 1946 and 1947. Yes, I had a pass in 1946 and 1947. But I paid for all the games I ever attended up until 1946.

### REDIRECT EXAMINATION

By Mr. Robert Bartlett:

Q. Mr. Beale, Mr. Driver asked you a question about dust on the parking lot or grass, where the grass was. I understood you to say there are always games there. Were you referring to school boy games? A. Yes, games of some kind. I couldn't give you the schedule. I didn't know what was going on. I didn't see them in there. It is right in my parish and I have folks living all around the neighborhood and there was something constantly going on.

Q. Not organized but by boys in the neighborhood? A. Yes. Even out on the parking space the boys were often playing around there on the outside.

\* \* \* \* \*

(Tr. pp. 1341-1343):

EARL S. DEWEY,  
3301 Westerwald Avenue

### DIRECT EXAMINATION

By Mr. Kemp Bartlett:

Q. Mr. Dewey, where is Westerwald Avenue? A. One block west of the Stadium.

Q. And it runs north and south from 33rd Street? A. That's right.

Q. And you live on which side of that street? A. I live on the east side.

Q. So that the rear of your house backs up toward the Stadium? A. That's correct.

Q. How long have you lived there? A. Ten years.



Q. Do you know the situation there before the Orioles moved out to the Stadium in 1944? A. Oh, yes. I was very well acquainted with it.

Q. And the situation afterwards? A. Yes, sir. The reason I know so well is the fact we walk our dog around the Stadium every day, so I am thoroughly acquainted with the conditions now and what they were before the Orioles came.

Q. I understand you don't own your house, you rent your house? A. That's correct. In my business it does not pay for us to own a house because we are very apt to be transferred at any time.

Q. You are with the News-Post, in the newspaper business? A. That's correct.

Q. Therefore, you rent instead of purchasing a home? A. I would like to say that if—I took that house almost as soon as I came to Baltimore. If I were to buy, I would try to buy the house I am in or as near that particular piece of property as I could. The neighbors are very fine and I like the environment there very much.

\* \* \* \* \*

(Tr. p. 1344):

Q. It was testified in this case that the shrubbery planted on the sides of the parking lots had deteriorated since the Orioles moved there in 1944. Will you tell Judge Mason whether that is your observation or not? A. No, I wouldn't say so. I can see no change whatsoever.

\* \* \* \* \*

(Tr. pp. 1344-1345):

Q. Was grass growing there prior to 1944? A. No, sir, not on the south end because that has been used by the soft ball teams or used by the pickup teams of the neighborhood.

Q. You have heard Mr. Beale testify, saying in that southwest corner and the south end of the west parking



lot there never has been any grass to his knowledge? A. No, absolutely not because they have put soft ball diamonds there which they use at all times. You will find games there almost daily.

Q. You are just a block from the place, aren't you?  
A. Correct.

Q. Do I understand your testimony to be that the dust does not disturb you in your house? A. No, absolutely not.

Q. How about the lights? A. The lights shine against the back of the house. Of course, that don't come in the first floor but it does hit the second floor. My mother-in-law's bedroom is on the second floor and she very often goes to bed before the game is over, with the lights on.

\* \* \* \* \*

(Tr. pp. 1346-1347):

(Mr. Bartlett) The question is the scene his dining room looks out on. A. Well, in the corner of the driveway, it extends out to the west of the Stadium, from Westerwald to Ellerslie Avenue, and our dining room overlooks the entire vista of the alley or driveway.

Q. Have you ever seen any nuisances committed there? A. I never have. I have even stood there and watched the cars go by or the people go up the driveway, and I have yet at any time, regardless of whether it has been baseball or football, seen any nuisance committed.

\* \* \* \* \*

(Tr. pp. 1347-1348):

Q. What difficulty did you have in finding a place, when you got home, to park your car? A. I never yet have had to park over a block from my home. However, that condition sometimes exists when my neighbors have guests. I sometimes have to park away from the front of my home. But at no time, regardless of whether it was the Army-Navy game or baseball game, have I been

forced to go more than a block away from my home to park.

Q. What have you to say about vandalism? A. I never have seen any vandalism.

Q. Or any results of vandalism? A. No, I can't say I have.

Q. How about noise? Can you compare the noise at baseball games with any other games? A. The major portion of the noise is from the school boy games. That is, the football games in the latter part of the summer and early part of the fall. Our windows are still open and the boys do overflow sometimes and they do make quite a racket. However, I don't object to that. I like to have them there. I think they are entitled to the use of the Stadium and I certainly would not in any way object to the use of the Stadium by school boys because of that noise. It is a short period of time before the game and after the game perhaps for fifteen or twenty minutes but never for any great duration of time. As far as the Orioles and as far as the football games, I find that the crowds are more intent on getting away and getting home than they are in staying around. They usually came up the driveway or the alley as you might term it, but they go pretty rapidly. They don't stop and they don't loiter, they continue to move at all times.

\* \* \* \* \*

(Tr. p. 1349):

Q. You don't find us being there an intolerable nuisance? A. Oh, absolutely not. As I said before, I am glad to have you.

#### CROSS-EXAMINATION

By Mr. Driver:

Q. Do you go over to the baseball games? A. Oh, yes, quite frequently. I would say two or three times a week.

\* \* \* \* \*

(Tr. pp. 1351-1352):

Q. You don't hear any noises at all? A. Practically none to speak of. Naturally, the people coming down the driveway and people getting into their cars, you hear the car doors slam or you hear people discussing the game, perhaps, but never to such a point that it is a disturbing thing.

Q. Did you ever hear them ring cowbells? A. Over at the games, yes.

Q. Can you hear that at your house? A. No, you can't hear that.

Q. Where are you when you hear that? A. At the game.

Q. You cannot even hear the Oriole rooters where you live, can you? A. Oh, yes, I can.

Q. How plainly can you hear them? A. You hear the roar. You know from that something is happening, you don't know what, but you know that something is going on. It is just a roar. You can't tell what they are saying or doing.

Q. Can you hear the loud speaker over where you live? A. You can hear a voice on the loud speaker, you can't distinguish it. I suppose by listening closely, you can hear it. It is difficult to tell who is in the line up and the reason. You hear the noise of the loud speaker, that is true, but that during the baseball season is very short. In the football season we hear that too. That is, we hear the roar. We still cannot tell what is going on, whether the man made five yards or ten yards, but we do know something is happening.

Q. And the lights shine in the second floor rear of your property? A. That's right.

Q. And also on the second floor rear of your neighbor's property, I assume? A. Well, yes, I would say people in the same block, it would reach them the same as it does me.

\* \* \* \* \*

(Tr. pp. 1356-1357):

WILLIAM O. GRIEVES,  
3620 Rexmere Road

# DIRECT EXAMINATION

By Mr. Robert Bartlett:

Q. Mr. Grievess, how long have you lived at 3620 Rexmere Road? A. Since 1929.

Q. Do you mind telling us what your family consists of there? A. My wife and four children.

Q. What is your business? A. Commission merchant.

Q. And your place of business is where? A. 62 Market Place.

Q. How many doors north of 36th Street is your house? A. I can't answer that because I never counted them; about half way down the block.

Q. You are three or four doors from Mr. Van Dusen, who lives 3612 Rexmere Road? A. That's right.

Q. He is one of the complainants in this case, I think. Which side of the street is your house on? A. The west side.

\* \* \* \* \*

(Tr. p. 1358):

Q. Do you ever attend the baseball games at the Baltimore Stadium? A. I do.

Q. With about what frequency? A. Oh, maybe a half dozen times during the season.

\* \* \* \* \*

(Tr. pp. 1358-1359):

Q. Let me direct your attention to the question of dust. Tell his Honor something about the dust, if you have ever noticed any, or if dust ever interfered with you at your home? A. There is no dust ever interfered at home and I say that because if there was an extra amount of

dust in the summer time, the wife would complain about the extra work she has had to do, which she has never done.

Q. Have you yourself noticed it? A. I have not.

\* \* \* \* \*

(Tr. pp. 1360-1363):

Q. Let me direct your attention to the lights. Tell his Honor something about the lights as being noticeable or not noticeable from your house? A. Well, the lights—you notice the illumination. I can't say the lights annoy me. They don't annoy a young child I have home that was put to bed eight o'clock or eight-thirty, and the lights never kept him awake, and I get a good bit of my sleep, being in the produce business, getting up at two o'clock in the morning, they never kept me awake. I have slept in the front of the house and I have slept in the back.

Q. What is the age of your youngest child? A. Six.

Q. It is six now so it was two when the Orioles started to play baseball in the Stadium? A. That's right, and the oldest one is seventeen.

Q. Do you have any more trouble getting the baby to go to bed at its regular time than you did the other ones? A. No.

Q. Where does the baby sleep? A. In the back room.

Q. Tell his Honor about the loud speaker, the noise from it, and what you heard from it and what, if any—how it in any way disturbs you. A. It hasn't disturbed me at all, because, as I said before, when I am not going out and I am home in the summer time, with the Orioles here, I am generally in bed because I get up one o'clock, two o'clock, three o'clock in the morning to go to work, and it has never kept me from getting my rest.

Q. Do other members of the family complain about it, in your presence? A. No, sir.

Q. What, if anything, have you to say about the rowdiness or vandalism around your house? A. I have not seen it.

Q. What about trash like whiskey bottles and beer cans and stuff being thrown on your lawn? A. I have never picked up a whiskey bottle or beer bottle off my lawn since I have lived there.

Q. What about people committing unseemly nuisances around your property before and after baseball games, have you ever had that? A. What do you mean by that?

Q. Well, using it as a lavatory? A. That hasn't happened in my home.

Q. As far as you and your family are concerned, has the playing of baseball by the Orioles in the Baltimore Stadium interefered with the enjoyment of your home? A. It has not. If it had, I think at the price I could have gotten for my house in the last couple of years, if it would have annoyed me to the extent it seems to have annoyed other people, I would have sold it. I don't have to live there.

\* \* \* \* \*

(Tr. p. 1364):

Q. There has been testimony in this case, I think you were not here, it was while the plaintiffs were putting on testimony, about rats appearing about the time the Orioles started to play baseball there. A. If they did, I didn't see them.

Q. Have you had any rat trouble around your house? A. No, sir.

#### CROSS-EXAMINATION

By Mr. Driver:

\* \* \* \* \*

(Tr. p. 1365):

Q. Have you ever seen any dust come off these parking lots? A. Sure there is dust comes off them.



Q. Much or not so much? A. Well, at times there is quite a bit and other times there isn't much. There hasn't been enough at my house to inconvenience either myself or my wife or make her complain about the furniture being dusty or anything about extra work she has to do.

\* \* \* \* \*

(Tr. pp. 1365-1366):

Q. You have never seen any dust around the 3600 block Rexemer Road coming from the parking lot? A. I have not.

Q. You go to work about what time, sir? A. I go to work anywhere from one o'clock in the morning on.

\* \* \* \* \*

(Tr. pp. 1366-1367):

Q. You told us you could see the lights shining on your house— A. I didn't say I could see the lights shining on my house. I said I could see illumination from the lights. My house faces east and west.

Q. But you say it does not bother you at all? A. It doesn't bother me at all, never interfered with my rest.

Q. Can you hear the loud speaker where you live? A. Yes, you can hear it.

Q. Can you hear what is said over it? A. No, we cannot.

Q. Have you ever heard anything that was played over the loud speaker system from where you live? A. I can't recall that I have. I haven't paid that much attention to it.

\* \* \* \* \*

(Tr. pp. 1367-1368):

Q. Have you ever seen any papers blowing around the parking lot? A. Certainly.

Q. After a ball game? A. Yes, after football games, too. There is some blowing around on my street right now.

\* \* \* \* \*

(Tr. p. 1369):

Q. How did Herb Armstrong get your name? A. I have known Mr. Armstrong for quite a while. My son happened to go to McDonogh when Herb was out there.

Q. And you are a very good friend of his? A. No, I am not a particularly good friend of his. I have known him.

Q. Did you offer to give your name to Mr. Armstrong?  
A. I did.

Q. How long ago? A. I think about two week ago.

\* \* \* \* \*

(Tr. p. 1370):

Q. And you were discussing the case? A. I wouldn't say we were discussing it. He asked me did I have any objection and would I testify for them and I said yes. I had no objection to them playing ball there.

\* \* \* \* \*

(Tr. p. 1371):

S. BOYD DOWNEY,  
3312 Ellerslie Avenue

# DIRECT EXAMINATION

By Mr. Kemp Bartlett:

Q. Mr. Downey, you live 3312 Ellerslie Avenue? A. That is right, sir.

Q. When did you buy your home there? A. We made the purchase in December, 1923, and moved in February, 1924.

Q. The house was brand new when you made the purchase, was it? A. It was.

\* \* \* \* \*



(Tr. pp. 1372-1373):

Q. How close is it to the Stadium? A. Within probably three hundred feet.

Q. Directly across Ellerslie Avenue or from the west parking lot, is it not? A. That is correct.

Q. How far north of 33rd Street is it? A. Probably 250 or 300 feet.

Q. The house on the corner of Ellerslie and 33rd Street fronts on 33rd Street and runs north along Ellerslie Avenue? A. That is correct.

Q. That property ends on Venable Street, doesn't it? A. There are about four houses in between the back of that property and Venable.

Q. Venable is a small street running to Westerwald from Ellerslie Avenue? A. That is correct.

Q. And you live in the third house north of Venable? A. That is correct.

Q. And it is just one house between you and the house of Miss Jennie S. Hand, who lives 3308 Ellerslie Avenue? A. That is correct.

Q. You are about the closest person to the Stadium of any houses around, aren't you? A. Well, we are as close as any.

\* \* \* \* \*

(Tr. pp. 1374-1377):

Q. Will you tell Judge Mason the condition of the parking lot, that is, the west parking lot, the one right in front of your house, from the time you moved into that house in 1924 until the present? What has its condition been? A. When we first moved in it was pretty much of a mud hole. One of our daughters every Saturday afternoon, when it rained used to go out there and get people out of the mud with their cars.

Q. You went over and helped them out? A. That's right, put ashes down and so forth.

Q. No baseball was being played then in the Stadium?  
A. No.

Q. These were patrons of football games, were they?  
A. That is correct.

Q. Has it improved or what has happened to it since?  
A. Well, attempts have been made to improve it. They planted grass seed several years ago, they spread manure over the entire lot one year, but immediately thereafter, in the fall, cars were parked there and grass has never been able to grow except in isolated spots.

Q. You heard Mr. Beale testify this afternoon that for the eighteen years he has lived in the neighborhood that that south end of the parking lot has never had grass on it and has always been bare? A. I did.

Q. Is that correct? A. That's correct.

Q. And I suppose there has been dust from that situation? A. Yes, there has been some dust.

Q. And that dust is raised just across the width of a 30 foot street? A. I don't know the width of the street but it is across the street.

Q. Has that been an intolerable nuisance to you? A. It has not.

Q. Is it peculiar to the playing of baseball there or is it there at all times? A. It is pretty much there at all times, no matter what event is taking place.

Q. How about trash lying around and blowing around in front of you? A. It has never been annoying. There is some trash after a game, after any event that takes place there is some little trash thrown about.

Q. Is that cleaned up? A. It is.

Q. Have you had occasion to observe how the baseball company cleans up the trash inside of the fence that is across from you, inside of the Stadium? A. No, except I never noticed any trash lying around.

Q. And on the outside of the parking lot there is trash after the game and that is cleaned up? A. That is correct.

Q. Tell Judge Mason about the lights, do they shine into your windows? A. Well, they are visible from my front windows both on the second floor and on the first floor. On the second floor the trees more or less shade the house and we also have second floor awnings shading the windows, so we don't get any direct light from the lights of the Stadium. There is a reflection.

(The Court) You mean the lamps themselves are not visible but the reflection is.

(The Witness) That is right. The lamps themselves are not visible but the reflection is.

\* \* \* \* \*

Q. Can you say whether that use was only occasional or whether it was frequent in the summer time? A. Well, I would say it was not as frequent as after the Orioles came there.

\* \* \* \* \*

(Tr. pp. 1377-1378):

Q. Do those lights create a situation that is intolerable to you and your family? A. No, not at all.

Q. How about the parking of automobiles on your street in back of your garage? A. Well, that is inconvenient at times because our garage fronts on Venable. As a matter of fact, we rent the garage from Miss Jennie Hands, and there are times when the cars are parked across the entrance. That isn't true only of baseball games, but it is also true at football games or any other time of the year, whenever there is a crowd.

\* \* \* \* \*

(Tr. pp. 1378-1379):

Q. I suppose you have on occasions notified the police to help you get a car moved? A. That is correct.

Q. And they did that, did they? A. That is correct.

Q. You said your mother-in-law lives with you. Does she find it an annoyance from those baseball games? A. It is quite the contrary. She enjoys it. She enjoys a crowd.

Q. She enjoys the people coming into the neighborhood? A. Yes, she is more or less confined to the house. She cannot go out too much and she enjoys seeing crowds of people.

Q. How old is she? A. I would suggest over seventy-five or eighty, something like that.

\* \* \* \* \*

(Tr. p. 1380):

Q. How about the loud speaker? A. Well, it isn't objectionable. Of course, we can hear it.

Q. You hear it but you don't find the noise objectionable? A. No. We can carry on our normal conversation, in which case you never even hear it. We don't pay any attention to it.

\* \* \* \* \*

(Tr. p. 1382):

#### CROSS-EXAMINATION

By Mr. Driver:

\* \* \* \* \*

(Tr. p. 1383):

Q. Of course, the more frequently the parking lot area is used in dry weather the greater the dust, is that right? A. That's right.

Q. You have seen this dust come off this parking lot and come into your house? A. Probably, but not objectionably so.

Q. It does not bother you. A. That's right.

\* \* \* \* \*

(Tr. pp. 1386-1387):

Q. You do have quite a parking problem where you live, don't you? A. Well, I wouldn't say it was quite a problem. It is a problem, of course. There are times, as I previously testified, when we have a car across the entrance to our garage and we can neither get in nor out. That is an annoyance at times.

Q. That happens frequently or infrequently? A. Well, to us it seems frequently probably. It is probably two or three times a summer. If it happens once it is irritating.

\* \* \* \* \*

(Tr. pp. 1388-1389):

MRS. HELEN DOWNEY

DIRECT EXAMINATION

By Mr. Kemp Bartlett:

Q. Mrs. Downey, Mr. Downey, who just testified, is you husband? A. Yes.

Q. You and he live at 3312 North Ellerslie Avenue? A. That is right.

Q. You heard his testimony, didn't you? A. Yes.

Q. Do you feel the same way he does about these things? A. I have never gone to a game of baseball in my life, but as long as my husband and my mother enjoy sitting on the sun porch, I have no objection at all to it. As a matter of fact, I am very glad she has a chance to get some entertainment. It probably sounds silly, but she does get some entertainment watching the crowds.

Q. And you don't find the baseball there creates an intolerable nuisance to you or your family? A. Certainly not. We wouldn't have stayed if it had been.

(Tr. pp. 1389-1390):

PECK JAN GRELECKI

DIRECT EXAMINATION

By Mr. Robert Bartlett:

Q. Mr. Grelecki, where do you live? A. 3602 Elkader Road.

Q. How long have you lived there? A. Eight years.

Q. How far is that from the Baltimore Stadium? A. It isn't very far, I know that. It is two doors, then a street, then the Stadium property begins; two houses, a street, then the Stadium property.

Q. Isn't it a fact you live directly next door to Mr. Knight, who is one of the plaintiffs in this case? A. I do, sir.

Q. What does your family consist of? A. My wife and one daughter; the one daughter a year and two months old.

Q. Prior to moving to 3602 Elkader Road eight years ago, where did you live? A. Eight years ago I lived with my mother and Dad, at 3502 Ellerslie Avenue. I lived there about prior years and prior to that—

Q. Where is that with respect to the Stadium? A. That is right across the street from the Stadium.

Q. And prior to that where did you live? A. I lived 803 Melville Avenue with mother and dad. That is a half block away from the Stadium property.

\* \* \* \* \*

(Tr. pp. 1391-1393):

Q. I want to ask you about conditions around the Baltimore Stadium. I am first going to ask you or direct your thoughts to the question of dust. Tell his Honor, Judge Mason, about the dust condition and how it affects your family, if at all? A. We have been living there for

twenty-one or twenty-two years. We have always had dust in that area. I am not taking up for the Baltimore Baseball Club. It has always been there. We played on these fields at the south end of the Stadium and the ground up there was so hard we could never play football there. We had to go across the street to Venable Park. We played baseball there.

Q. Are you referring to the west parking lot? A. Southwestern, yes, sir. The dust has always been there. I have heard this testimony and this dust is just an irritation to me because anyone who has been there a number of years all know there has always been dust there.

Q. Let me direct your attention to the lights. Tell his Honor the condition of those lights as respecting your home and what annoyance, if any, they occasion you, your wife or your child? A. Well, our home being situated the way it is, the only light we see from the Stadium is on the front porch and then it is never a nuisance. It is an illumination that is rather pleasant. It is like a full moonlight night.

Q. Your house faces east, does it not? A. Yes, east.

Q. And Mr. Knight's house is the only one between you and the Stadium? A. Yes, sir.

Q. Have you had any difficulty in so far as that light is concerned, with getting your little daughter to bed at the proper hour at night? A. Well, that light, the illumination never touches inside of the house because it is being blocked off by Mr. Knight's home. It does not penetrate the home at all.

Q. You don't have any trouble about that? A. No, sir.

Q. What about rats, any rats in the neighborhood when the Orioles are playing there? A. The only evidence of rats I have seen was when they had an extermination campaign in the neighborhood. That has been

about two and a half years ago. I don't know whether that was just pertaining to our neighborhood or not, but we were posted in the back yards to be careful of our dogs. Outside of that, I have never seen a dead rat or scurrying rat.

\* \* \* \* \*

(Tr. pp. 1393-1395):

Q. Did I ask you about the loud speaker? A. No, sir.

Q. Tell us about that, will you, please? A. Like this gentleman who was just here before me, we are always conscious of it but as it does happen, it becomes part of our living there. You don't pay much attention to it. In fact, some nights when I am too tired to go to the game I try to catch the line-up as given over the speaker and some neighbors' radio is so loud I cannot get the line-up. So the neighbor's radio is louder to me than the speaker at the Stadium.

Q. What about nuisances, throwing whiskey and beer bottles and cans and trash, and stuff like that, on your lawn. Tell his Honor about that? A. I have never seen any evidence of that, sir.

Q. Has your lawn or the back of your house ever been used for lavatory purposes, that you know of? A. No, sir.

Q. Is there a garage connected to your home? A. Yes, sir.

Q. That is in the back, of course? A. Yes, sir.

Q. Do you have any difficulty in parking your car or using your own property for parking your car when you want to? A. During one time, until whoever was responsible inaugurated the one way street there. That eased up mine. I always had the alternative of using my garage when people did park in front of my home.

Q. Did you ever want to get into your garage either for putting your car away or getting your car out of it and found that it was impossible for you to do so



because someone else had parked in your garage entrance. A. It has happened a few times.

\* \* \* \* \*

(Tr. p. 1396):

### CROSS-EXAMINATION

By. Mr. Driver:

\* \* \* \* \*

(Tr. p. 1397):

Q. You have seen the evidence of the dust in your home? A. A little, yes.

Q. You stated you are always conscious of the loud speaker, is that correct, you can always hear, it you can always know it is going on? A. Oh, I know it is on; yes, sir; I am conscious of it.

Q. You like to go to the ball game when? A. Whenever I have time.

Q. How many time in a season do you go? A. I like to go two or three times a week, if I can, if I can afford it.

\* \* \* \* \*

(Tr. pp. 1398-1399):

MRS. CLARA M. SCHWARTZ,  
826 East 33rd Street

### DIRECT EXAMINATION

By Mr. Robert Bartlett:

Q. And how long have you lived at 826 East 33rd Street? A. We bought the house on the 3rd of October in 1922 and moved in directly.

Q. So that you were one of the early settlers? A. We were the first ones in that block.

\* \* \* \* \*

(Tr. p. 1399):

Q. There is one house between your house and Ellerslie Avenue? A. Yes, sir; 828.

Q. You have lived there since before the first game or athletic contest was ever held in the Stadium? A. Yes. They were just completing the Stadium when we moved there.

Q. Was Ellerslie Avenue already paved when you moved there? A. Not very well, it was mostly all lake.

\* \* \* \* \*

(Tr. pp. 1399-1400):

Q. I want very briefly to ask you a few questions. First, about the Stadium lights, they were put in in 1939, but I just want to ask you about the lights after July, 1944, when the Orioles started to play night baseball. Do they bother you? A. No, sir.

Q. Do they shine into any of your rooms and disturb your sleep? A. No, I don't go to bed until after the games are over.

Q. Tell his Honor something about the noise, please, at football games and at baseball games? A. Well, there is noise naturally, there are so many people there and would make more noise than a few. But it does not bother me. I expected it when I moved there.

\* \* \* \* \*

(Tr. pp. 1400-1401):

Q. What about the crowds of people walking on the sidewalk past your house and littering up the premises? What have you to say about that? A. Well, after the first season I can't say I have any objection at all. The crowd has been very quiet and passed my house in an orderly manner. I can say that very truthfully. The first season they were a little careless.

Q. That was in 1944? A. Yes, sir.

\* \* \* \* \*

(Tr. pp. 1401-1403):

Q. What about the dust situation? A. Well, that dust has existed a long while. I remember some years ago I gave the officers on the beat out there every clothes brush and every whisk broom in the house to dust off their uniforms.

Q. Was that before the Orioles came there? A. Oh, yes, sir, it was before they came there. I mean to say the dust was always there.

Q. Has there been any noticeable increase in the dust, as far as you are concerned, since the Orioles started to play baseball in 1944? A. Well, the dust depends entirely on the weather. If there has been a rain, there is no dust. If it is dry, it is dust everywhere.

Q. Your garage, I think you have a two car garage in the back of your house? A. Yes, I do.

Q. You rent it out, do you not? A. I rent it out now, yes. When it was vacant and they had games I frequently opened it and let people put their cars in it.

Q. You have never had any trouble about using that garage, have you? A. I think the young man who rents it had trouble once, which I didn't know about until days afterwards. He did not complain to me about it.

#### CROSS-EXAMINATION

By Mr. Driver:

Q. Mrs. Schwartz, do you live in 826 alone? A. Yes, sir.

Q. Do you occupy the entire house? A. No, I rent three rooms.

Q. Who do you rent them to? A. Well, last year I rented them to Peabody Students.

Q. How about the year before? A. The year before I rented them to the baseball boys.

Q. Is anybody occupying them now? A. Yes, I have two young men there.

Q. Are they with the Orioles? A. Mr. Mike Skoff is there now. I think he is the manager or coach at the University of Baltimore.

Q. Did he use to be a baseball player? A. I don't know. I guess he was. Frank, his brother, was I know.

\* \* \* \* \*

(Tr. p. 1405):

EDWARD WERNER

(Tr. pp. 1406-1407):

DIRECT EXAMINATION

By Mr. Kemp Bartlett:

Q. Mr. Werner, where do you live? A. 3703 Kimble Road.

Q. How long have you lived there? A. About ten years.

Q. Oh, you have been there ever since the Orioles have played baseball at the Stadium? A. Yes, sir.

Q. And for six years before that? A. Yes, sir.

Q. Some of the neighbors have testified about this loud speaker. I want to ask you about that. Can you hear the loud speaker from your house? A. Yes, sir. I hear the loud speaker quite often, but it does not interfere with any conversation, it does not interfere with us.

Q. Is it a continuous noise? A. Once in a while it is a lot of noise but it doesn't interfere with us.

\* \* \* \* \*

Q. How about dust? A. The dust, there is dust but I imagine everywhere you go in the city when the wind blows you have dust.

Q. Do you have dust out there continuously? A. No, sir; only once in a while when the wind is blowing.

\* \* \* \* \*

(Tr. pp. 1407-1409):

Q. Your street is a one way street? A. Yes, sir.

Q. Which way does traffic run down there? A. North.

Q. And parking is permitted on it? A. Yes, sir.

Q. Does that create an intolerable nuisance? A. No, sir, it does not. Our houses have driveways underneath the homes and we used to put our cars in the garage so people could park their cars.

Q. And they parked on the street and in the alley back there? A. Yes, sir.

Q. How about lights? A. The lights are to the south of us and they don't have any effect on us.

Q. I have asked you whether or not the loud speaker was any different during football games and baseball games. How about the crowds? A. The crowds are a little more in football games. We enjoy crowds. It does not have any effect on us at all.

Q. So you don't mind these things at all that occur there when large assemblages of people are there? A. No, sir.

Q. Have you seen any disorderly conduct of people who attend games out there on your street? A. No, sir, nothing disorderly. You see that all over the city, as far as loud talking and things like that. They don't interfere with us. As far as cursing, I haven't heard anything yet.

Q. You haven't heard any cursing or obscene language? A. No.

Q. But you do hear loud talking? A. Yes, sir.

Q. And that does not annoy you? A. No, sir.

Q. What time are the games over and the crowds away? A. I would say around eleven o'clock at night.

### CROSS-EXAMINATION

By Mr. Driver:

Q. Mr. Werner, what is your position? A. Tavern.

\* \* \* \* \*

(Tr. p. 1410):

Q. How late is your tavern open? A. Two o'clock at night, but I very seldom work at night time. Once in a while. I work during the day.

Q. What time do you usually get home? A. Around six o'clock to dinner. Then I usually stay home and go back to the place about eleven o'clock or eleven thirty.

\* \* \* \* \*

(Tr. pp. 1410-1411):

Q. What you are telling the Court is this, isn't it, that you hear the loud speaker and can hear it very plainly where you live? A. Yes, sir.

Q. And you say that cars are parked in the front and rear of your house? A. Yes. The children park the cars around there. We let the children around there park the cars.

Q. Do they park in the alley? A. Not in the alley but the driveway towards the house; out of the alley.

Q. And you say the crowds and noise, and so, forth, don't annoy you, you like noise and crowds? A. Yes, I enjoy noise and crowds.

\* \* \* \* \*

(Tr. pp. 1411-1413):

Q. You do go to the ball games? A. Yes, sir.

Q. Do you go often? A. Sometimes I go and sometimes I don't. Sometimes I sit in front of the house.

Q. Have you ever seen dust coming off that parking lot? A. When cars are going in and out, yes; maybe when the wind is blowing a little.

Q. Is there much dust or not? A. I wouldn't say too much, unless the wind is blowing hard and carries it when it is dry weather.

Q. Did you ever hear that music played over the loud speaker? A. Yes, sir.

Q. What have you heard played over it? A. I have heard the National Anthem played and some of the football music.

Q. And while the Orioles were playing baseball, what kind of music can you hear? A. I have heard maybe before the game the National Anthem. I can't recall the music.

Q. Did you ever hear that Abbott and Costello record? A. Yes.

Q. You have heard music other than the National Anthem? A. Yes, but I can't recall the name.

Q. Can you hear it inside your house? A. I can't recall unless the windows were open.

Q. You usually have your windows open in the summer time, don't you? A. Well, I have heard it; yes, sir.

\* \* \* \* \*

(Tr. pp. 1415-1416):

WILLIAM G. STOCKHAUSEN,  
3402 Oakenshaw Place

DIRECT EXAMINATION

By Mr. Kemp Bartlett:

Q. Mr. Stockhausen, you are in the electrical contracting business are you not? A. Yes, sir.

Q. And you installed lights at Oriole Park? A. Yes, sir.

Q. In July, 1944, you moved two poles with the lights on them from Oriole Park out to the Stadium? A. That is correct.

Q. They are the two poles that are erected on the playing field at the north end, thirty feet beyond the first base line, is that correct? A. That is correct.

\* \* \* \* \*

(Tr. pp. 1416-1423):

Q. Do you aim the lights that are out there at the Stadium for the Orioles? A. Each spring we focus the lights, the two poles which are the property of the Orioles, as well as the six towers which are the property of the City.

Q. Now tell Judge Mason just how you focus those lights? A. Those lights are focused upon the playing field in order to get an even distribution of light. The construction of the particular flood lights is such that you can only focus them about five degrees down from a horizontal position. You can focus them to any degree on the side, either to the north or south, but to focus them down you only have about a five degree focus or more. Those belonging to the Orioles, they can be focused at any angle. However, those two towers are down in the bowl and the top of them is below the top seats of the Stadium property. In other words, they don't protrude above the top of the Stadium.

Q. Does any light spill over the top of the Stadium from those two poles? A. No, sir.

Q. You make an attempt, do you not, to focus the other lights on top of the parapet, the east and west side, down on the field? A. That is correct.

Q. And you focus them down as far as they will go? A. Yes, sir.



Q. Mr. Stockhausen, can these lights be focused like a flashlight so they will throw a very close beam or can they only be aimed? A. No, they have no focus as far as the particular beam for each light is concerned. In other words, there are certain lights which you can focus with a very narrow beam, and then you can throw a wider beam. But on the particular lights at Oriole Park, they cannot be adjusted.

Q. When you say Oriole Park, you mean at the Stadium. A. At the Stadium, yes.

Q. They cannot be focused but they can be aimed north and south and down field, of course. A. That's correct.

Q. And you do that each spring? A. Yes.

Q. Do you attend to any of the maintenance during the season? A. We maintain the two poles which belong to the Orioles. The maintenance for the six towers is under the supervision of the Park Board.

Q. Are the lights changed at all for football games? A. Yes, sir.

Q. How is that done? A. They are again refocused, or I would say, use the word adjusted according to the play that is required by the football organization.

Q. Football needs the light all up and down the 100 yard field? A. Yes.

Q. Where does baseball need the light? A. Your intensity of light is mostly on the infield and that light is given to the infield by the two towers belonging to the Orioles. The other six towers, the three on the east and three on the west, we try to focus those to try to get as much light on the outfield as possible. On the infield, at the home plate we get what is known as about 35 foot candles. In the pitcher's box I can get 35 foot candles. Third base I can get 35 foot candles. At first base I get 19 foot candles. At second base about 22 foot candles. That is in the area of the infield. In the outfield it is

impossible, with the present flood lights to get better than 10 foot candles for any part of that field. What we call a foot candle is the equivalent of one ordinary candlestick burning at a foot distance from the light. There has always been a great deal of contention out there about the outfield not being lighted sufficiently. But that outfield should have an intensity of at least seventy-five foot candles. At the present time it only has ten foot candles. The flood lights which belong to the City are antiquated and the reflector on those flood lights is a mere reflector and it has so depreciated that that is almost as black as coal. It has no reflective service at all worth mentioning.

Q. You mean it is weathered so that the shine or the sheen is gone? A. That is correct. The only light you get is from the lamp itself, you get no reflection right from the flood light itself.

Q. As I understand your testimony, all the light is needed on the playing field and there is no desire on anybody's part to have it spill over? A. Absolutely. If there is any spilled light that goes over, it is due to the construction of the flood lights belonging to the City of Baltimore and not to those which are the property of the Orioles.

(Mr. Bartlett) That is all.

#### CROSS-EXAMINATION

By Mr. Driver:

Q. Mr. Stockhausen, you know of course that a considerable amount of light does spill over, regardless of the precautions taken, you know that is a fact? A. That is a fact, there is light which spills over, but not due to the lights which are required by the Orioles. That is due to the construction of the towers and the flood lights which are the property of the City.

Q. And in the summer time, when these night baseball games are played, those batteries of lights, three on each side of the Stadium, are pointed towards home plate or in the general northerly direction, are they not? A. No.

Q. Which way are they pointed? A. There are only two towers—I am speaking of the towers belonging to the City—there are only two towers which are focused on the infield and they are the one tower on the east side and one on the northern end of the field. The other four towers, two on each side, are focused on the outfield only.

Q. Have you made any check, Mr. Stockhausen, of how far those lights shine on the homes of the neighbors outside of the Stadium? A. No. I have had no occasion to make a check on that.

Q. Have you ever driven around the Stadium at night when the lights were on and the Orioles were playing? A. Yes, sir.

Q. Have you ever noticed, for instance, that the lights can be seen rather plainly as far as the Alameda? A. You can see the lights, that is true, but in answering your question, I have been on the east side, the first street to the east of the Stadium, and I have tried to read a newspaper there at night and I could not read the newspaper. That happened at the fourth of July celebration, when those lights were all on.

Q. How about when the Orioles were playing? A. The same lights that were on on the Fourth of July celebration are used by the Orioles.

Q. Then you say whatever light spills out of the Stadium is a faint light? A. That is a reflected light.

Q. Is it a faint light or bright light? A. You would have to take a measurement on that to determine the light, but I would say if you took a candle foot meter and measured the light itself, the amount of light spilled,

that you would not get one foot candle reading. That is less light than the City street lights.

\* \* \* \* \*

(Tr. pp. 1424-1427):

Q. You known, Mr. Stockhausen, that the land to the east of the Stadium, a portion of it at least is downgrade from the Stadium itself, leading down towards the Alameda; is that right? A. Do you mean the embankment there?

Q. Well, yes. Windemere Avenue and Lakeside Avenue, they generally go down hill, don't they? A. You have a grade there that is a natural contour of the ground. What degree it is, I don't know.

Q. Have you observed that some of the lights on top of the Stadium go over the top of the houses immediately east of the Stadium and go on down a block or two and hit some of the houses that sit up a little bit higher? A. I think that is correct.

Q. As I understood your testimony, you said that it would be more desirable for the playing of baseball to point these lights down on the playing field, but that you cannot do that, you can only get five degrees from the horizontal? A. That is correct.

Q. You can move them laterally most any way you want, but you cannot get them down? A. No, sir.

Q. And this failure to get them down, that causes this spill over? A. That is correct.

(The Court) Hasn't he answered if you did that it would not be desirable for football and other games there?

(The Witness) Your Honor, there are lights you can focus down as much as forty-five degrees. If that type of light were in the Baltimore Stadium, there would no spilled light whatever that would go out of the park,

then, if you had football those lights again could be refocused to an extent of ninety degrees.

(The Court) You are talking about the City lights.

(The Witness) Yes, Sir. The Oriole lights are focused to the extent of forty-five degrees.

### REDIRECT EXAMINATION

By Mr. Kemp Bartlett.

Q. When you say that the towers are eighty-five feet high, you mean above the parapet, don't you? A. I mean above the parapet; yes, sir.

Q. I think one of the witnesses testified they were 110 feet above the playing field, is that about right? A. Yes, that is correct. I am speaking of that part of the towers which is above the parapet.

Q. About the focusing of those six lights, isn't it a fact although they take care of the outfield, they all have a general focus to the north?

(Mr. Driver) I object to that. The witness has said they are not pointed to the north except those two lights, one on the east and one on the west.

(The Court) I think the question is objectionable for another reason. I will sustain the objection.

Q. Do I understand those lights are focused on the south as well as on the north of the towers? A. The lights of the four towers on the outfield, with possibly one or two exceptions, where we tried to pick up a shadow or dark spot, they are practically focused east and west. That is, on the east side are focused toward the west, and those on the west side are focused toward the east.

Q. That applies to the two southernmost towers and the two middle towers? A. That applies to the two

southernmost towers on the east and the two southernmost towers on the west.

Q. And the northern one on the east and west, how is that? A. They are focused south. That is, I would say one is focused in a southeasterly direction and the other in a southwesterly direction.

Q. But they all focus down on the field as far as you can get them? A. That is correct.

\* \* \* \* \*

(Tr. p. 1428):

Q. Is the focusing for baseball in a different direction than that for football? A. Yes.

\* \* \* \* \*

(Tr. pp. 1428-1431):

WILLIAM H. SCHMELLER,  
3601 Rexmere Road

#### DIRECT EXAMINATION

By Mr. Robert Bartlett:

Q. Mr. Schmeller, how long have you lived at 3601 Rexmere Road? A. One Year.

Q. You board there, do you not? A. No, sir, I room there.

Q. Did you live in the vicinity of the Stadium prior to a year ago? A. Yes, sir; off and on for twenty years.

Q. Let us confine ourselves first to the last year. Were you living there when the Orioles started to play baseball in April of 1947? A. Yes, sir.

Q. And you have lived there ever since? A. Yes, sir.

Q. I want to direct your attention to some of the complaints which have been made against the playing of baseball at the Baltimore Stadium. First I want to take up the lights. Are the lights in any way annoying to you at 3601 Rexmere Road? A. No, sir. You could not even

see them unless you went out in the middle of the street and deliberately looked for them.

Q. Mr. Schmeller, what about the noise, first confining yourself to the use of the loud speaker? Can you hear that? A. Occasionally, yes, sir.

Q. Is it objectionable to you? A. No, sir.

Q. What about noise of people on the street going to and leaving the Stadium? A. Well, it is really so noiseless that when we are sitting in our sun parlor, with seven windows open, the crowds will go by and if you don't stand up and look out, you won't even know it.

Q. What about the dust? There has been a lot said here about dust from the parking lots on the east and the west side of the Stadium. A. In hot weather there is some dust, yes, but not of a complainable nature. I have never heard my folks complain about it that I lived with from 1944 to 1946. I lived at 1130 East 36th Street, three doors west of Ednor Road, and we were never troubled in any way. The noise was so negative that I would be sitting in the back room on the second floor, with all windows in the house open, and I would be doing my book work, principally on Tuesday night, and I would wait for eight o'clock to come or quarter after eight, and I would miss it, it would be so quiet. I would override my time and run over to the bleacher side. That's how I got in the habit of going to the bleachers because I lived on the bleacher side. The east end of it. I think this whole thing is magnified four or five or six hundred per cent. That is my personal opinion.

Q. I think on Rexmere Road that one of the witnesses said something about rats in the street. Have you ever noticed any rats around there?

\* \* \* \* \*

(Tr. p. 1432):

A. No, sir.

(Tr. pp. 1432-1434) :

Q. You go to ball games? A. Yes, sir; very frequently.

Q. Going to and returning from the ball games to where you live, have you ever noticed any rowdyism or destruction of property or things of that kind? A. No, sir.

### CROSS-EXAMINATION

By Mr. Driver:

Q. Mr. Schmeller, who owns the house where you are rooming? A. Mr. Ernest Baxter. And he would be glad to testify but he is a Canadian and he hesitates to do so.

Q. I couldn't hear what you said. A. I said the gentleman who owns the house where I live thinks the same as I do, we are very much in accord, and he would be glad to testify, but he hesitates because he is a Canadian. He has been here only a little over a year.

Q. When did he buy that house? A. Just a little over a year ago. Perhaps a year and three or four months ago.

Q. You are what might be called a baseball fan, are you? A. Yes, sir.

Q. You like to go to the ball game? A. Yes, sir; five or six times a week; seven if I get a chance.

Q. As a matter of fact, you go over there almost every time there is a game, don't you? A. Well, you can say that, yes. Whenever I want to and as frequently as I like.

Q. And Mr. Baxter goes along with you? A. He has on one or two occasions, yes.

Q. Does that house have a "For Sale" sign on it now?

A. Yes, but in reference to that let me tell you—

\* \* \* \* \*



(Tr. p. 1435):

### CROSS-EXAMINATION

By Mr. Harlan:

\* \* \* \* \*

(Tr. pp. 1436-1440):

Q. Do you go to the game every week five or six times? A. Some weeks I have gone five and six times.

Q. And other weeks you have been home when the ball game was going on? A. Yes, and not only home but when I would get home, I know there is no complaint in the home about what they saw while they were there compared to what I saw when I was home.

Q. Why is the house in which you live for sale? A. Because the gentleman is going back to Canada.

Q. And not because of any of these alleged inconveniences? A. No, sir.

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JOHN A. WERNER,  
636 E. 36th Street

### DIRECT EXAMINATION

By Mr. Robert Bartlett:

Q. Mr. Werner, how long have you lived at 636 East 36th Street? A. Twenty-six years.

Q. Do you own that house? A. Yes, sir.

Q. Who lives there with you now? A. My own family, my wife and I.

Q. Mr. Werner, you are no relation to Mr. Edward Werner, the first witness this morning, are you? A. No, sir.

Q. Have you been in Court before today? A. No, sir.

Q. I want to direct your attention to the Baltimore Stadium and ask you in reference to complaints we have been hearing about for the last two weeks, about light, dust, noise, and crowds. First, I will take up the lights. The lights have been there since 1939, have they not?  
A. That is correct.

Q. Since the Orioles moved in there to play ball in July of 1944, have those lights caused you or the members of your family any inconvenience? A. None at all.

Q. Does that apply to when baseball is played as well as when football is played? A. Oh, yes.

Q. What about the noise? Take up first the noise from the loud speakers. Can you hear the loud speakers if you listen for them? A. I guess if you pay close attention and the wind is from that direction, you might hear some of it occasionally.

Q. Does it worry you or members of your family? A. No, sir, not in the least. We like it.

Q. What about the noises, if any, made by people going to and coming from the ball games? What can you tell his Honor about that? A. Nothing out of the ordinary. They are either happy or gloomy, according to the way the game is doing.

Q. Have you been disturbed or heard any cursing or obscene language used by those people that walk past your home? A. No. We have never had any trouble about that.

Q. What about the dust? Tell us about the dust, in your own way? A. Well, dust, I guess, you will find everywhere. We have never had it unless it comes from the Homewood Stadium or the playgrounds or Clifton Park. But if it comes in the wife gets the mop and gets rid of it and gets ready for some more dust. It never ruined our furniture.

\* \* \* \* \*

(Tr. pp. 1440-1441):

CROSS-EXAMINATION

By Mr. Driver:

Q. How far away from the Stadium in blocks do you live? A. I would say about a block and a half. This is the 600 block, the next is the 700 and next is Ellerslie Avenue.

\* \* \* \* \*

Q. On the north side of 36th Street I mean? A. That's right.

(The Court) You are over near Frisby Street, aren't you?

(The Witness) Right close to Frisby.

(The Court) You are west of Frisby Street, aren't you?

(The Witness) About four doors.

\* \* \* \* \*

(Tr. pp. 1443-1447):

Q. Mr. Werner, what in substance you are telling Judge Mason is this, isn't it? That you see the lights and hear the loud speaker and the crowds and the dust. You know about all of those things, but they just don't bother you, is that your testimony? A. That's true.

Q. Have you been around that parking lot in the summer time when the weather was dry, going to the baseball games when the cars come in and go off the parking lot? A. Oh, yes.

Q. There is a great deal of dust that comes up at those times, isn't there? A. Sometimes there is. It depends on the wind.

Q. It depends on the wind and the weather, but when there is a slight breeze or high wind and the weather is dry, the dust is pretty bad, isn't it? A. I guess it is. In some sections more than others.

Q. Can you see the lights at all where you live? A. We can see the reflection. There are so many trees along there, really you would have to look above the trees to see the reflection; but you would not see any glaring light, any more than we have from the moving picture parlors on Greenmount Avenue; about the same.

Q. You have no difficulty knowing that the lights of the Stadium are on, from where you live, you know the lights are on? A. Oh, yes.

Q. And you can do that by being in your own home, you don't have to go outside? A. From the porch. We couldn't see it from the inside of the house. We can see the reflection from the porch.

Q. Can you see the batteries of lights from your front porch? A. No. You can see they are up there but there is no glare from them in our section. It is just a reflection from them. You know they are lit but there is nothing shining in your eyes.

Q. You said you can hear the loud speaker over where you live. Have you heard some of the music that was played over it when the Oriole games were on? A. I have heard it, yes. I have heard the speakers at the football games occasionally. It just depends on the wind. It doesn't disturb me in the least.

Q. Have you ever heard this Abbott and Costello record from where you live? A. Oh, yes.

Q. How is it you have such a vivid recollection of hearing that? A. Hearing what?

Q. Hearing the Abbott and Costello record? A. Because it is more or less baseball and I think it is right funny, if you don't hear it too often.

Q. You have heard it too often, is that your position? A. I think I have heard it too often. I don't want to hear it any more.

Q. You have heard it too often? A. Yes, they ought to pull a new one.

Q. The novelty of it has worn off, is that right? A. That's right.

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HARRY L. THOMPSON,  
3528 Ellerslie Avenue

DIRECT EXAMINATION

By Mr. Kemp Bartlett:

Q. You are directly to the west of the Stadium, is that correct? A. That is correct.

Q. Do you own that house? A. I am buying it.

Q. When did you buy it? A. In April, 1946, and moved into it in August 1946.

Q. And you have lived in it since then? A. Yes.

\* \* \* \* \*

(Tr. pp. 1447-1450):

Q. Let me direct your attention to the dust. The parking lot on the west side is directly to the west of your home, isn't it? A. Yes, sir.

Q. What is the condition of it? A. It has grass in places and bare dirt in other places.

Q. And cars park there for all affairs held at the Stadium? A. Yes, sir.

Q. What about the dusty condition, have you observed that? A. I might draw a comparison. Mrs. Thompson takes care of the dust situation and she always complained more at 3031 St. Paul Street than she does at 3528 Ellerslie Avenue.

Q. The dust isn't so bad on Ellerslie Avenue as it was on St. Paul Street, when you lived there? A. That is correct.



Q. Is dust limited to baseball games around the Stadium or does it occur when there are other events?

A. It occurs at all times. People have mentioned when the wind is blowing and if there would be no wind blowing at the Stadium, the dust would still rise.

Q. About the loud speaker, can you hear that in your house? A. Yes, we can hear it.

Q. What kind of a noise is it? A. Not bothersome.

Q. It isn't continuous? A. No, it isn't continuous.

Q. Can you carry on an ordinary conversation while it is going on? A. Yes, sir.

Q. Does the loud speaker situation exist when other events than baseball are being held at the Stadium? A. Yes, sir.

Q. With respect to lights, how do the lights affect you?

A. Well, Ellerslie Avenue is bounded on both the east and west side by a row of trees and when they are in bloom, it is practically impossible for us to see any direct light from the Stadium. There are about three trees that block my house from receiving any direct light from the Stadium.

Q. So I understand your testimony to be there is more light in the fall and early spring than there is in the summer time games in the Stadium? A. As the trees lose their foliage you can say there would be more light.

Q. How about noise in the streets and the parking? A. Not bothersome, sir.

Q. There is noise, I suppose? A. Well, no more than anticipated.

\* \* \* \* \*

(Tr. pp. 1450-1451):

Q. What time do you get home from your work? A. We close at five-thirty and I am at home usually at six o'clock.

Q. When there are any double headers, they are just starting at six o'clock? A. I think they start around 6:30 and the crowd is just beginning to gather when I get home.

Q. And other occasions when it is used at night for baseball, the games start at 8:30, don't they? A. I think that's correct; yes, sir.

Q. And on Sundays I think they start at two? A. Yes, sir.

Q. And you are home most of those times? A. The majority of the times; yes, sir.

Q. Have you observed the conditions which have occurred there since August of 1946? A. Yes, sir.

Q. You say they are not too objectionable to you and your family? A. They are not, sir.

\* \* \* \* \*

(Tr. pp. 1452-1453):

#### CROSS-EXAMINATION

By Mr. Driver:

Q. Mr. Thompson, when the parking lot on the west side of the Stadium is heavily used in hot weather, there is a great deal of dust from it, is there not? A. Not to my observation.

Q. You say there never is very much dust? A. I don't say that, sir. I said not to my observation.

Q. Of course, you are home all during the day? A. No, sir.

Q. And when you get home the crowds have not yet arrived for a night baseball game, so that you sitting right across the street, have a perfect opportunity to observe it, if you look, haven't you? A. That's right.

Q. Is it your testimony to this Court when two or three thousand automobiles are on the west parking lot,

they do or do not stir up dust? A. They don't stir up enough for me to notice it.

Q. Do you go to the ball games? A. Occasionally; yes, sir.

Q. How often? A. Oh, I guess through the season I would average maybe twice a week.

\* \* \* \* \*

(Tr. pp. 1453-1454):

Q. What percentage of the lot is that west side parking lot was it in August, 1946, pretty sparsely covered with grass or was it mostly just dirt or did it have some few patches of grass on it? A. I am not too qualified to say what it was in 1946. I know that the parking lot slopes down toward Ellerslie Avenue and most of that part is covered by grass, most of that slope, and it extends up in sort of a zig-zag line on the side parallel with Ellerslie Avenue. Some places it extends further up into the lot, and particularly where there are some streets along 36th Street.

Q. There is some grass coming up out there now, isn't there? A. I am not qualified to say, sir.

\* \* \* \* \*

(Tr. p. 1455):

Q. That loud speakers can be heard by you inside of your house? A. During the summer and windows open, yes.

Q. But your point is that it does not bother you? A. It does not bother me to any extent.

Q. Have you heard what is broadcast over that loud speaker system while you were sitting in your home? A. Well, generally speaking, when I am sitting home I have the radio turned on listening to Bill Dyer's broadcast of the game. It usually coincides to some extent



with what the loud speaker is playing and it becomes sort of unified. You don't take notice of the loud speaker.

\* \* \* \* \*

(Tr. pp. 1456-1457):

Q. Mr. Thompson, was your family away last summer?

A. My family was away for a period of about six weeks; yes, sir.

Q. And what six weeks were they? A. Latter part of June, about June 23rd until the first of August.

Q. Where were they? A. Ocean City, Maryland.

Q. You were there pretty much by yourself? A. Yes, sir.

\* \* \* \* \*

(Tr. pp. 1459-1461):

FRED W. BECKMAN,  
1016 E. 36th Street

#### DIRECT EXAMINATION

By Mr. Kemp Bartlett:

Q. 1016 East 36th Street is how far from the Stadium?

A. It is just a step across the street from Gate No. 9 on 36th Street.

Q. Just north of the Stadium? A. That's right.

Q. And between what avenues? A. I live on the corner of Rexmere Road. It is between Rexmere and—I don't know the name of the next street to it.

Q. When did you buy that house? A. I don't own it, I rent it.

Q. How long have you lived there? A. I have lived there for a year.

Q. All through the 1947 baseball season? A. That's right; practically.

Q. What, Mr. Beckman, have you observed about dust, first of all? A. Well, you are going to get dust up at the Stadium whether they play football games or baseball games or what it is. The wind raises the dust. We don't object to dust, we don't object at all.

Q. Is there any dust when there is no use made of the Stadium which is brought about by the wind? A. There is when the condition is just right. We get dust up the street, papers and everything else from the Stadium.

Q. How about the lights? A. The lights don't bother us at all. The only time you can see them is when you go to the window and look out.

Q. They don't shine in your room so that you cannot sleep at night? A. No, sir, not at all.

\* \* \* \* \*

(Tr. pp. 1461-1463):

Q. Can you hear the loud speaker? A. Occasionally we can hear it. If we have our windows open, wide open, and sit there and listen to it, but the wind would have to be directly north for you to hear it distinctly.

Q. You don't hear it continuously? A. No, is isn't continuous, only as batters come to the bat, when it is all over, except for announcing scores in the other games of the league.

Q. Do you find it objectionable? A. I do not.

Q. Does it interrupt or interfere with an ordinary conversation? A. It does not. A lot of the times I don't go to the game and I turn the radio on soft and we can hear the radio, we don't hear the noise from the outside.

Q. What comparison can you make in the use of the Stadium for football games, and for baseball games? A. When there is a football game that speaker is on continuously from the start of the game to the end of the game.

Q. They announce a play by play description? A. Well, I never listen to broadcasts of football games, but you can hear the speaker from the time the game starts until the game is over.

Q. That is not so of baseball? A. Only when they announce during the evening a score of some other game being played at night.

Q. How many members in your family are there? A. Just my wife and myself.

Q. And she thinks the same as you do about this matter? A. Absolutely.

Q. And right at that corner is where people wait for buses, is it not? A. That's right.

Q. Have you observed any rowdyism of the people waiting there? A. I never have.

Q. Loud talk or boisterous language? A. Never have.

Q. Have you ever heard any cursing? A. No, sir, never have. In about ten minutes that crowd is cleaned right out because the buses are waiting there to take them as soon as the game is over.

\* \* \* \* \*

(Tr. pp. 1464-1467):

Q. Did you ever have any occasion to take any work home at night to do? A. Oh, frequently, but I get it done before the ball game goes on because I generally go to the ball game when I get a chance to go.

Q. It has been testified by the complainants that people's lawns are used by the public as lavatories. Have you noticed that on your lawn? A. No, sir, I never have.

Q. Or on anybody else's lawn? A. No, sir. The crowd that comes out of that gate No. 9 is generally that crowd that lives at that end of the town and they are generally out of there ten or fifteen minutes after the game is over.

Q. Then the neighborhood is quiet? A. The neighborhood is quiet, it is all cleared out.

Q. What time do the games usually end? A. I think they have to end quarter of eleven.

Q. Have you ever noticed any whiskey bottles or trash strewn on your lawn by people leaving the games? A. No, sir. I have cleaned the lawn off four times and have not found a whiskey bottle on it yet.

### CROSS-EXAMINATION

By Mr. Driver:

Q. Mr. Beckman, after the games are over, the buses are lined up along 36th Street waiting for the crowd as they come out and get into these buses? A. That's right.

Q. How many buses are lined up there? A. I never counted them.

Q. Many? A. Oh, probably a half dozen or more.

Q. In length, how far do they extend, a block or what? A. Yes, I would say a block or maybe two blocks. They are lined on both sides of the ticket office sometimes.

Q. And right before the game is over, do those buses start their motors up? A. I couldn't answer that. I never stood up there and listened to them. I imagine they do to get them warmed up—well, they wouldn't have to get them warmed up in the summer time.

Q. Have you ever noticed the fumes from those buses? A. You can notice the fumes from buses today even though there is no ball game there.

Q. But when you have a block of them lined up in a row, it would necessarily be acute, I should say? A. We haven't noticed it too much.

Q. Have you noticed it at all? A. Oh, yes, we have occasionally.

Q. The odor comes into the house? A. That's right.

Q. It isn't very pleasant? A. Is isn't objectionable.

\* \* \* \* \*

(Tr. pp. 1467-1468):

Q. As a matter of fact, you have heard batters being announced as they have come to the bat, haven't you?

A. I have.

Q. And you have heard the scores of other ball teams in the league being announced over it, haven't you? A. I have.

\* \* \* \* \*

Q. You don't pay much attention to what goes on in the neighborhood, do you? A. I do not.

\* \* \* \* \*

(Tr. pp. 1469-1470):

ALEX J. BRADLEY,  
728 East 35th Street

#### DIRECT EXAMINATION

By Mr. Robert Bartlett:

Q. Mr. Bartlett, how long have you lived at 728 East 35th Street? A. Thirty-two years.

Q. Do you own that house? A. Yes, sir.

Q. What does your family consist of? A. Five girls and four boys, and my wife.

Q. How many of them living home with you now? A. There are five living home now.

Q. Mr. Bradley, by whom are you employed? A. Board of Education as a carpenter.

Q. You, of course, lived 728 East 35th Street when the present site of the Stadium was an old abandoned brick yard; is that right? A. Yes, sir.

Q. Prior to the building of the Stadium there, were any of those streets to the north laid out? A. No, sir, no streets whatever. It was a clear field.

\* \* \* \* \*

(Tr. pp. 1471-1473):

Q. I want to direct your attention to some of the complaints which have been made about baseball at the Stadium. Are the lights objectionable at all to you and your family? A. No, sir, not at all.

Q. Do you see any direct lights? A. I see one direct light parallel with 35th Street, that is the only one I see. It doesn't affect me at all.

Q. Does it keep you from sleeping or other members of your family from resting? A. No. I never heard them complain. I get my natural rest.

Q. What about the dust? A. Well, that is liable to happen anywhere where there is a congregation of people, the crowds leaving. I don't have any complaint and my wife doesn't have any or the children.

Q. What about the noise, can you hear the loud speaker? A. The only time I can hear the loud speaker is when the wind is blowing towards my house occasionally, but outside of that, I never hear it. Mostly I am in the house and sometimes I am on the front porch.

Q. Do people walk back and forth going to the game and returning from the game along 35th Street in front of your house? A. Oh, yes, droves of people walking past there after the game.

Q. Does that annoy you or your family? A. None whatever. I like to see them come and go myself.

Q. Have you ever heard any profane or obscene language used by those people going by your house? A. No, sir. I have sat on my porch many an afternoon when the games were out and I have never seen any disorderly crowd.

Q. Did you ever see any evidence of people using your property or your neighbor's property for a toilet?  
A. No, sir.

Q. Do you go to the ball games occasionally when you get a chance? A. Occasionally.

\* \* \* \* \*

(Tr. pp. 1473-1474):

Q. Does the parking of cars along 35th Street or in the alley in the rear of your house cause you any personal inconvenience? A. Well, they don't park any cars in the rear of my alley where I live. I think the police are after them too much. It is practically only a one way alley and in front of the house, I should say no.

#### CROSS-EXAMINATION

By Mr. Driver:

Q. You have seen them park in the alleys in the neighborhood though, haven't you? A. Yes, I have.

Q. It creates a right unpleasant situation, doesn't it?  
A. Yes, it does.

Q. Your house is how far away from the Stadium, Mr. Bradley? A. Well, I will say practically 600 feet, maybe more.

Q. And there are some houses in between your house and the Stadium property? A. 800 block.

Q. And do those houses catch the light that comes from the Stadium? A. They don't really block it off from my house because my porch extends out ten feet further than those other houses.

\* \* \* \* \*

(Tr. pp. 1475-1476):

Q. Have you walked around the Stadium at night?  
A. Yes, sir.

Q. Have you noticed lights shining out on houses? A. I don't think I took that much notice of it. I was really more excited about the crowds than anything else.

Q. You love crowds and excitement? A. Yes, sir, indeed, I love crowds.

Q. The bigger the crowds and the more excitement, the better you like it, is that right? A. Well, I don't know. I always did like crowds and sports.

Q. This dust problem, have you been at the ball games when those crowds were coming on the parking lot or going off it? A. Yes.

Q. It creates right much dust, doesn't it? A. Well, there is some dust there, but that is going to happen at any time when there is a lot of people, crowds; but my home has not been affected by it.

\* \* \* \* \*

Q. Have you ever heard anything played, any music played over the loud speaker? A. I have heard music. The only time I get a noise, the music, and so forth, is when the wind is blowing in that direction.

\* \* \* \* \*

(Tr. pp. 1477-1478):

MRS. ANNIE E. KLUTER,  
3320 Ellerslie Avenue

#### DIRECT EXAMINATION

By Mr. Robert Bartlett:

Q. Mrs. Kluter, how long have you lived at 3320 Ellerslie Avenue? A. It will be twenty-four years in May.

Q. That is directly opposite the west side of the Baltimore Stadium, is it not? A. Yes, it is.

Q. Did you buy the house new? A. Yes, we did.  
Q. And that was about two years after the Stadium had been built? A. Yes. The Stadium was built in 1922.



Q. And you and your husband bought that house in 1924? A. We bought it in 1923 and moved into it in 1924.

Q. Streets were not paved around there then, were they? A. No, they were paved after we moved in.

Q. I want to ask you about some of the complaints that we have been listening to for the last two weeks. First, I want to take up the question of lights. Do those lights from the Stadium bother you during baseball games? A. Not at all.

\* \* \* \* \*

(Tr. pp. 1479-1480):

Q. What about the noise from the loud speaker, did you hear that? A. No, I do not, because I go to the games every night and I don't have to listen to it. I would like to listen to it but I go to the games every night I can.

Q. You go to the games every night you can? A. Yes, I do.

Q. What about Sunday games? A. I go to those too.

Q. So far as baseball is concerned, you only hear the loud speaker practically when you are at the ball game itself? A. That's all.

\* \* \* \* \*

(Tr. pp. 1480-1481):

Q. What about the dust, tell his Honor something about the dust? You live right across from the parking lot? A. The dust is no different in baseball than football, it is just the same. They tried to plant grass seed in that lot but it never materialized at all. They have planted sod and planted grass seed but it never materialized at all.

Q. What games do the boys play on that lot? A. They played soft ball.

Q. Is that constantly? A. Oh, mostly in the mornings and sometimes around about four-thirty in the evening. It is just young boys, not the older men; just the school boys.

\* \* \* \* \*

(Tr. pp. 1481-1482):

Q. Is it a fact that most of that lot is just clay and pebbles? A. I think it is mostly clay. I don't think there is many pebbles there.

Q. It isn't conducive to playing football on? A. No. Q. What about trash, can you tell his Honor whether you have been bothered by any excessive amounts of trash or whiskey bottles or beer cans thrown on your property? A. No, I am not. I know after every game on Saturday night you see men picking up trash on Sunday morning.

Q. That is on the outside? A. That is on the west side of the Stadium. I don't know anything about the north or the east.

Q. But Sunday morning you have seen the men— A. As early as seven o'clock in the morning there, collecting the papers and trash.

\* \* \* \* \*

Q. What about rowdyism, Mrs. Kluter? A. I have never seen any, none coming from baseball at all. To my estimation, they are cleared away immediately after the games.

Q. They go away as quickly as they can? A. Very, very quickly.

Q. How long does it take the average crowd at a baseball game to get away from Ellerslie Avenue? A. I would imagine ten or fifteen minutes is the most.

\* \* \* \* \*

(Tr. pp. 1482-1483):

Q. Will you tell me, please, what your family consists of? A. Just myself, and I have a young lady and a young man who room with me.

Q. Do they get their meals at your home? A. Yes, they do.

Q. And you have rented rooms to some of the baseball players, have you not? A. Yes. I rented in 1946 and in 1947.

Q. How many did you have in your house? A. I think I had three in 1946. Of course, they come and go. Last year I had five.

\* \* \* \* \*

(Tr. pp. 1484-1486):

WILLIAM T. FINN,  
704 Chestnut Hill Avenue

DIRECT EXAMINATION

By Mr. Kemp Bartlett:

Q. Chestnut Hill Avenue is a little further away from the Stadium than the other witnesses who testified this morning, is it not? A. That's right. I would say that the distance from the Stadium from 33th Street to 36th Street would be the difference from 36th Street to my home.

Q. And your home is up on a hill? A. Yes, sir.

Q. From there can you hear the loud speaker or get any dust? A. No, sir.

Q. It doesn't go that far? A. No, sir.

Q. How long have you lived in the neighborhood of the Stadium? A. I will be living there eleven years this September. I waited for my home to be completed.

\* \* \* \* \*

Q. And you attend the baseball games? A. I would say as much as the average or better than the average fan there. Every opportunity that presents itself I go down, and when I don't I tune in on Bill Dyer and follow pretty religiously when they are winning and get disgusted when they are losing.

\* \* \* \* \*

(Tr. pp. 1487-1488):

A. Only the other day I was driving down 36th Street on my way home when there was a cloud of dust. There is always dust.

Q. There was no affair going on at the Stadium then?

A. There was not.

Q. But there was still dust blowing from the lots? A. Yes, sir.

Q. Are those lots used as playgrounds in the day time?

A. In all available weather, eliminating snow and rain, and possibly my boy is guilty of the same thing, I think on the east or west side of the Stadium almost at any time there is activity going on, not during school hours, I mean after school and Saturday mornings, and Saturday afternoons, and I think I would be safe in saying on the east and west side of the Stadium on a Sunday morning, and not Sunday afternoon when the games are going on, I think I would be safe in saying there are ten soft ball games taking place at different times on the outside of the Stadium.

Q. A result is that grass does not grow, isn't that right, except in spots? A. If it has, I have not seen it for children.

Q. And it is dusty? A. Yes, sir.

\* \* \* \* \*

(Tr. pp. 1488-1490):

### CROSS-EXAMINATION

By Mr. Driver:

Q. The other day you told us you were driving up 36th Street and the dust was so bad you could hardly see. Have you ever seen it like that during the summer months when the Orioles were playing a ball game? A. At the first part of the season I think yes, it could be, but then mother nature takes care of what has blown off the top, I think it settles down and gets pretty hard, unless we have a rainy season, which might start up a little bit again.

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ALVIN STEIN,  
740 East 36th Street

### DIRECT EXAMINATION

By Mr. Kemp Bartlett:

Q. You live 740 East 36th Street? A. Yes.

Q. How far is that from the Baltimore Stadium? A. Just about a block from the Stadium.

Q. How long have you lived there? A. It will be four years in July.

Q. So you have lived there ever since the Orioles have played baseball there? A. That's right.

Q. Do you notice any dust coming from the parking lots? A. Not any unusual amount of dust.

Q. Do you have dust in your house that your family attributes to the parking lots around the Stadium? A. No, we have dust but we don't attribute it to that.

\* \* \* \* \*

(Tr. pp. 1490-1494):

Q. What about noise and crowds around there, are there crowds that come to baseball games orderly or

disorderly crowds? A. I would not say disorderly. It is just like any other crowd. If you get eight or ten thousand people together they are bound to make some noise, but it isn't objectionable.

Q. How long does it take the crowd to get out of the Stadium at those baseball games and get away from the neighborhood? A. I would say about ten to fifteen minutes after the games are over the neighborhood is comparatively quiet. Most of the people have gone.

Q. Do they park automobiles on your street? A. No, they don't, but they use 36th Street as sort of a getaway street.

Q. No parking is permitted on it? A. That's right.

Q. Some of the complainants objected to that because they say they cannot keep their cars on the street. Do you mind having it as a one-way street? A. Well, of course, I don't have a car but it doesn't bother me one way or the other.

Q. The loud speaker, do you hear that? A. Yes, we hear it.

Q. Tell the Court about the noise that it makes. Is it a continuous rasping sound or is it intermittent? A. It is intermittent. They, of course, announce the line-up of the game and announce the batters, and possibly any substitutions they may make during the game or possibly a baseball score for another team in the league.

Q. Mr. Stein, does that interfere with the normal enjoyment of your home? A. No, it has never bothered me in the least.

Q. Can you carry on a conversation while that loud speaker is going on? A. Yes, sir, we can.

Q. How about music, do you hear the records played on it? A. Well, only possibly at the beginning of the game they play the Star Spangled Banner which is

natural. That is about all I have noticed in the way of music.

Q. And you don't find that objectionable? A. I do not.

Q. Can you make a comparison between the crowds that attend baseball and those that attend football? A. I don't think there is much difference in the crowd except the crowd at the football game is larger. I think that has been shown by the Colts carrying a larger crowd than the Orioles. As far as the objection to the Orioles being in the Stadium, if you took away football games on the week-ends say, and high school games on the week days and on Saturday there is usually an afternoon game, and a professional game at night, another high school game, so you have a double header on Saturday, so naturally in the winter time I would say there are more people who attend the Stadium for football games than they do for the Orioles.

Q. Each week there are more people in the neighborhood for football games than there are for baseball? A. That's right, when football is in season, of course.

Q. And, as I understand your testimony, you don't find the use of the Stadium by the Orioles objectionable to you and your family in the community? A. No, not in the least.

### CROSS-EXAMINATION

By Mr. Driver:

\* \* \* \* \*

(Tr. p. 1494):

Q. Do you go to the ball games yourself? A. Possibly twice a week.

\* \* \* \* \*

(Tr. pp. 1495-1497):

Q. Assuming we have a dry spell and there is a pretty big crowd, four or five or six thousand people, the dust

there is pretty bad isn't it? A. I would not say it is too bad. If we have a heavy wind you have almost as much dust blowing off there without the automobiles.

Q. In other words, the dust is there and it can be stirred up either by automobile traffic or by the wind?  
A. That's right. The dust is definitely there.

Q. You have seen it when there was quite a good bit of it? A. That's right, at times.

Q. How about the lights, do you see the lights at your house? A. No, just the reflection. They don't bother us at all.

Q. Do they shine in your house? A. No. We are away from that entirely.

Q. How far away are you? A. Well, I would say a block and a half from the Stadium proper and we are off on the side where the lights would not shine down our street.

Q. There are some properties between your house and the Stadium? A. That's right.

Q. You have heard music played over the loud speaker? A. From time to time, yes.

Q. You have heard it while in your home? A. Not particularly, no. We are, say, sitting on the porch in the evening in the summer time and we hear it that way.

Q. You sit out there, you sit out there on Sunday afternoons if you are not at the ball game? A. As a rule, we are usually away on Sunday afternoons, but if we are home, we hear it naturally.



MRS. D. H. TIMANUS,  
3204 Avon Avenue

DIRECT EXAMINATION

By Mr. Robert Bartlett:

\* \* \* \* \*

(Tr. pp. 1498-1499):

Q. You are about two blocks from the Stadium proper, are you not? A. Yes, we are.

Q. Does your family own that house? A. Yes. We bought it two years ago because we had to have a larger house and I had to move from 36th Street.

Q. Do you mind telling what your family consists of? A. I have a daughter eighteen and my husband. My husband is a baseball fan and I am one because he is, because I have to go and he likes it. But last year, I would like to tell you I had a daughter sick in bed from January 13th to July 19th, and through April, May, June, when they were there, she was in that front room facing the Stadium, and, of course, we heard them going up. Anybody would hear a crowd of people going up, but it is a crowd of people and that isn't annoying. On 36th Street we have a lawn and they don't even trample on the lawn, they keep on the pavement.

Q. Have you observed any rowdyism or throwing of whiskey bottles or beer bottles on your property? A. No, sir.

Q. Or going past your house? A. No, sir, I have not.

Q. Either at football games or baseball games? A. No, sir.

Q. Tell us something about the lights, are they noticeable from your house? A. Not where I live now but on 36th Street we could notice the glow, anyone could, but it wasn't objectionable.

Q. Did it keep you awake at night when you wanted to go to bed? A. No, sir.

Q. What about the noise from the loud speaker? A. Oh, I can't say we don't hear that. You do hear that but it did not irritate me. I didn't pay any attention to it. But if a drop of water irritates you, you can hear it at any time. We don't mind it.

### CROSS-EXAMINATION

By Mr. Driver:

\* \* \* \* \*

(Tr. p. 1501):

Q. Did you ever hear the music from the loud speaker?  
A. You can hear everything if you listen.

Q. You could hear it when you lived on 36th Street?  
A. But it did not annoy us.

Q. Can you hear music from the loud speaker in your Avon Avenue home? A. No, I can't say I can.

Q. You cannot hear it at all? A. Yes, I can hear it but I don't pay any attention to it because it doesn't annoy me. I don't mind it.

Q. You can't see the lights where you live now? A. If you know Avon Avenue, it is a shady street and, of course, it forms a bower or shade trees and they are very high. They are right to the top of the houses.

Q. When you lived on 36th Street, you noticed the lights? A. You could see them in the back of the house.

\* \* \* \* \*

(Tr. p. 1502):

(The Court) For the sake of the record, Mrs. Timanus, Avon Avenue is the next street between Ellersile and Frisby.

(Tr. p. 1503):

MRS. CHARLOTTE DRENNAN,  
633 East 36th Street

DIRECT EXAMINATION

By Mr. Robert Bartlett:

Q. Mrs. Drennan, how long have you lived at 633 East 36th Street? A. Fourteen years.

Q. Will you tell me what your family consists of? A. Two son and two daughters-in-law, a son-in-law and my daughter.

Q. Do you own that house? A. Yes, I am buying it.

\* \* \* \* \*

(Tr. p. 1504):

Q. I want to ask you about the lights and the noises and the dust and so forth around the Baltimore Stadium. First, I will take the lights. At your home do the use of those flood lights interfere with your enjoyment of your home? A. No, they do not. We are on the east side. We have a tree in front of the house. There is a reflection across the street but my tree takes care of that.

\* \* \* \* \*

(Tr. pp. 1504-1507):

Q. What about noise from the loud speaker? A. Well, I retire early and I arise early and I am not annoyed by it; and I am sure that no one in my family are annoyed by it; and I have been ill for three years since the death of a son.

Q. I am sorry. A. I have been ill for three years since the death of a son and I feel if the noise was as bad—if it were bad enough I would be disturbed by it.

Q. You retire early at night? A. Yes.

Q. What time do you retire? A. Ten o'clock, sometimes earlier than ten o'clock.

Q. Is that during the summer as well as in the fall of the year and winter? A. Yes, it is.

Q. And it does not disturb your rest? A. No, it does not.

Q. There has been a great deal said about dust in the neighborhood. Can you tell his Honor something about the dust? A. Well, I feel we have dust the year round when the weather is dry. We clean our porch just as much when there are no games and find just as much dust there when there are no games as we do when there are games there.

Q. Is it fair to say that the dust is with you all the time? A. Yes.

Q. Whether any activity is going on at the Baltimore Stadium or not? A. Yes, I think so. We have paving all around and a little grass out front, but I don't think we get the dust from the Stadium if there is any dust there. I don't go to the Stadium except on Easter morning and I know very little about what goes on down there.

Q. You don't attend any of the games, either football or baseball? A. No. My two sons and son-in-law and their wives all go, but I never go to the games.

Q. But you hope to be there next Sunday morning? A. Yes.

Q. What about trash and whiskey bottles and beer bottles and cans? Have you noticed any of them around your property? A. No, I never have.

Q. What about rowdyism? A. No. When the crowds pass our house they seem orderly as any crowd would be. I have never noticed anything about them to object to.

\* \* \* \* \*

(Tr. p. 1508) :

WILLIAM H. CALLAHAN,  
3601 Kimble Road

DIRECT EXAMINATION

By Mr. Kemp Bartlett:

Q. Mr. Callahan, you are in the general contracting business, are you not? A. Yes, sir.

\* \* \* \* \*

(Tr. p. 1509) :

Q. How far is 3601 Kimble Road from the Stadium property? A. About 275 feet.

Q. North on Kimble Road? A. North of the Stadium on Kimble Road.

\* \* \* \* \*

Q. Do you own other properties in that vicinity? A. Yes, sir.

Q. Which properties are they? A. I own the house at 831 East 34th Street and one at 3800 Kimble Road, two on Ednor Road.

Q. What are their numbers? A. 3901 and 3903 Ednor Road. Then some various ground rents in Ednor Gardens.

Q. How long have you lived in the vicinity of the Stadium? A. Twenty-five years.

\* \* \* \* \*

(Tr. pp. 1511-1514) :

Q. What have you to say about any condition of dust? A. Well, we have dust there at times like all other places. There are days when you have dust from automobiles. I don't think the average set up there creates a whole lot of dust.

Q. Is the dust occasioned solely by the use of the Stadium for baseball? A. Well, I would say there is

more dust there after rains, when mud is brought out into the street, than there is ordinarily; but that is about the only occasion I noticed any dust.

Q. Some of the complainants in this case have characterized the dust as being great clouds and making it unbearable in their homes. Did you find it that way in your own home? A. No, sir, I did not.

Q. How about the noise of the loud speaker? A. Well, it doesn't annoy me.

Q. You hear the noise, do you? A. Yes, sir.

Q. It is not a continuous, rasping noise, is it, that makes it impossible to hold an intelligent conversation while it is going on? A. No, sir. I would not say so.

Q. How about the lights, how do they affect you? A. The lights do light the neighborhood up a little, that is to be expected, I think, but it does not annoy me.

Q. How about any of the properties that you own; in your opinion, does the use of the Stadium materially affect or depreciate the value of those properties? A. No, sir.

Q. As a matter of fact, it has just been the other way, hasn't it, those properties have gone up in value? A. One of the houses, the corner property, I gave \$5,400 for it and I was offered \$15,000 and I refused it.

Q. That is the corner of what street? A. 3800 Kimble Road.

Q. What have you to say about the people going and coming from the Stadium, do they come out quickly after the game is over? A. I think they do; yes, sir.

Q. You attend the games, do you not? A. Yes, sir.

Q. Do you observe whether they remain in the neighborhood long after the game is over? A. No. It is the usual getaway from an athletic event.

Q. Some of the witnesses have testified that within fifteen minutes the Stadium is empty and the people are out of the neighborhood. Has that been your experience? A. I would say that is about true; yes.

Q. Have you noticed any rowdyism or loud talking or abusive or obscene language in the neighborhood? A. No. They are many times hilarious when the Orioles win or the football team in whom they are interested wins. That is natural. That is what they go there for.

Q. Can you tell Judge Mason, make a comparison between football games and baseball games? A. Well, I don't see a whole lot of difference. There are just about as many spectacular plays in one as in the other, so I would say they are about the same.

\* \* \* \* \*

(Tr. p. 1515):

Q. If you know, is the loud speaker used more often in football than in baseball? A. Well, I can't say that there is a whole lot of difference between one and the other.

\* \* \* \* \*

Q. Mr. Callahan, you are chairman of a committee called the Stadium Committee, are you not? A. Yes, sir.

\* \* \* \* \*

(Tr. p. 1517):

#### CROSS-EXAMINATION

By Mr. Driver:

Q. Mr. Callahan, your company does a great deal of work for the City of Baltimore, does it not? A. That's right.

\* \* \* \* \*

Q. Has your name been published in the newspapers within the last few days as being one of a group organ-

ized to refinance the Baltimore Colts? A. That's right, but I am not financially interested.

\* \* \* \* \*

(Tr. p. 1518):

Q. And one of the plans of reorganization was the granting of a lease or right to the Baltimore Colts to play in the Baltimore Stadium, was it? A. That is true.

\* \* \* \* \*

(Tr. pp. 1518-1520):

Q. Is it not a fact there are times, varying in intensity of the weather, and so forth, when the dust is pretty bad? A. Yes, there are times after rains usually.

Q. And by that you mean that the vehicular traffic goes up on the parking lots and carries the mud out into the streets and then that dries up and the resulting dust spreads all over the street, doesn't it? A. Yes, it makes the condition a little worse than ordinarily, I would say.

Q. And the ordinary condition isn't so good either, is it? A. Well, it isn't too bad.

Q. Of course, the increased traffic, assuming that is sort of an unsatisfactory condition, this dust situation, that is made more acute by an increase in traffic, is it not? In other words, the more the lots are used, assuming the other things are equal, the greater the use the more the dust; isn't that right? A. That depends on the ground conditions. Many times the Stadium is used there is no dust, then again you have rain and the dirt tracked out into the street, and then it becomes dust and a lot of traffic makes it a little difficult. But ordinarily, no.

Q. You say you can hear the loud speaker at your home? A. Yes, sir.

Q. Sitting inside of your home in the summer time? A. Yes, sir.



Q. Can you hear the music that is played over the loud speaker? A. Yes, sir.

Q. Have you heard this Abbott and Costello record played over the loud speaker? A. I have heard the music but I could not distinguish as to what the pieces are that are being played.

Q. With respect to the lights, you say they light up the neighborhood but they don't annoy you and your position with respect to dust and loud speaker and lights and crowds is that you have observed all of these things, you have seen them for years and heard them for years but they do not particularly bother you? A. That is true.

\* \* \* \* \*

(Tr. p. 1522):

Q. You go to the baseball games rather frequently, do you? A. Every time they play over there.

\* \* \* \* \*

(Tr. pp. 1525-1526):

J. PAUL SCHMIDT,  
1211 Lakeside Avenue

#### DIRECT EXAMINATION

By Mr. Kemp Bartlett:

Q. Mr. Schmidt, you live at 1211 Lakeside Avenue?  
A. That is correct.

Q. Lakeside Avenue, I believe, is one street north of 33rd Street? A. That is true.

Q. And runs east and west? A. That is correct.

Q. And it runs right into Ednor Road? A. Ednor Road.

Q. How far do you live from Ednor Road? A. About 250 feet.

Q. That is 250 feet directly east of the Stadium property? A. Directly east of the Stadium property.

Q. You are a member of the Bar of Baltimore City, are you not? A. I am.

Q. How long have you lived on Lakeside? A. Eleven years.

Q. And you bought your house when? A. I bought the home when it was new.

Q. How much did you pay for it? A. \$8,200 in fee.

Q. And you have lived there ever since? A. I have.

Q. You were there before lights were installed on the parapet of the Stadium, were you not? A. If I recall, they were installed just about a year and a half or two years after we moved there.

\* \* \* \* \*

(Tr. pp. 1527-1528):

Q. Mr. Schmidt, it has been testified in this case by people living close to you that an intolerable condition is brought about by dust from the parking lots. I want to ask you about those parking lots. They have always been parking lots since you have lived there, have they not? A. As far as I can recall except that some portions of it are used for a soft ball field.

Q. Has there ever been sod or turf all over that? A. I don't recall seeing any more there than is there at the present time.

Q. And there are a great many bare spots on them? A. Plenty of them, and it has a gravel base.

Q. Does the dust come from those lots used as parking lots? A. Yes, dust does arise.

Q. Does it blow toward your house? A. Well, occasionally but it does not give us any great inconvenience.

Q. How often would you say there is dust coming from those parking lots? A. Continually, of course, when either you have a long dry spell or the dirt is carried down the street to some extent.

\* \* \* \* \*

(Tr. pp. 1528-1531):

Q. How about the lights, do they shine on your house?  
A. The lights don't strike into my house in any appreciable extent. I see the lights but not to any great extent, maybe about a foot in the front window.

Q. Have they ever disturbed you or any members of your family? A. No, they have not.

Q. Is Mrs. Schmidt able to go to sleep when the lights are on? A. Yes.

Q. And you too? A. Yes.

Q. How about the children? A. Well, they go to bed about half past eight and it does not disturb them.

Q. How old are your children? A. They are six. I have twins and they are six years old.

Q. How about noise, do you hear the loud speaker?  
A. Yes, I hear the loud speaker.

Q. Is that objectionable to you? A. Not to me.

Q. Are you able to carry on an intelligent conversation while the loud speaker is going? A. Yes. The extent of it is, perhaps, talking to my wife in the early part of the afternoon and the rest of the afternoon or the evening I am in my office.

Q. You have an office in your home? A. I have an office in my home.

Q. And I suppose like most lawyers, you have to carry work home to do at night? A. I do. I do most of my research work at home at night.

Q. Are you able to work at night in your home while the baseball game is going on? A. Yes. In fact, I might say I have a radio and I listen to the baseball both ways. I hear it coming in the window and over the radio.

Q. Which beats the other in? A. Well, I hear them both, so I can't say which is the louder.

Q. You don't find it objectionable? A. No, not at all.

Q. And it does not interfere with your work? A. I listen to the program and except when I am doing something that requires very close work, we let the radio stay on and listen to the score.

Q. I suppose like many lawyers, you can so concentrate on the case you are studying without hearing what is going on around you? A. I have been doing that for years.

Q. And you don't find that the use of the Stadium by the Orioles interferes with your work? A. None whatsoever.

Q. And some of your neighbors, Mr. Schmidt, have testified that the parking of cars on the street interfered with their normal use of the street. What have you to say about that? Do you find the parking of cars interferes with the use of the street?

\* \* \* \* \*

(Tr. pp. 1531-1536):

A. It say "No parking," that is parking is prohibited. There is a "No parking" sign.

Q. So no one parks on that street without violating the traffic rules? A. That is true. That being the case, I cannot park my car in front of the house.

Q. What do you do to take care of it? A. I had a special concrete driveway constructed in the rear of my property and if any of my friends come or I want to

leave my car out front for a while I park it on my own property.

Q. You have a garage to put the car in and you have a driveway? A. Yes.

Q. So you don't find any intolerable inconvenience in your street being made a street where people cannot park? A. Not at all.

Q. How about the crowds leaving the game, have you heard any riotous comments or language that was obscene or cursing? A. Nothing to any serious extent. It seems to me like the noise coming from all the crowds is about the same. I haven't heard anybody say anything I wouldn't want my children to hear.

Q. You mean all the crowds, whether from baseball games or football games? A. Football, or even in the scholastic games on Friday nights.

Q. It is used for scholastic football games practically every week? A. Practically every Friday night there is either one and sometimes two games, on every Friday or Saturday night.

Q. And then a college game Saturday afternoon? A. A college game Saturday afternoon.

Q. Or a professional football game on Sunday afternoon? A. That is true.

Q. So it gets extensive use in the fall? A. Nearly every week.

Q. I understand from your testimony in your opinion these things that exist out there do not constitute an unbearable nuisance to you? A. Not to me.

Q. And do you think, Mr. Schmidt, it has depreciated the value of your property or deteriorated the value of it? A. Not from my personal experience.

## CROSS-EXAMINATION

By Mr. Driver:

Q. Mr. Schmidt, where do you usually do your work?

A. In the club cellar. I have a combination office and club cellar.

Q. And you tell Judge Mason you can hear the noise from the crowd and the noise from the loud speaker down in your club cellar and that you frequently have your radio going, listening to the ball game, you hear it broadcast over the loud speaker and you are also simultaneously engaged in some research work on some problem you have to solve? A. That is true.

Q. And you do all three of them at once, do you?

A. Yes, I hear both sounds at the same time.

Q. And you are doing your work then too? A. I would say I was engaged in making an analysis of a point of law, but if I am just doing ministerial work or drafting a paper or copying some authorities, or something like that, I will turn the radio on and listen to it both ways. On the other hand, though, if I keep the radio off I can hear the sounds from the outside.

Q. If you keep the radio off you can still hear the ball game, is that it? A. That is true. That is, I can hear the loud speaker. I can hear the noise of the assembled multitude in case some fancy play is made.

Q. And you and your wife feel pretty much the same way about this situation? A. I think so.

Q. Do you know that your wife is one of the protestants in this neighborhood? A. Not that I know of. Not unless somebody got her to sign a paper which I did not see.

Q. You would know her signature, wouldn't you? A. I think so.

Q. Is that your wife's signature? A. That is her signature.

Q. Did you know she had made any contribution to the protesting of the use of the Stadium by the Orioles?

A. No, I did not.

\* \* \* \* \*

(Tr. pp. 1537-1538):

# REDIRECT EXAMINATION

By Mr. Kemp Bartlett:

Q. Mr. Schmidt, you have looked at this receipt, which I suppose it is, or a contribution— A. I merely identified the signature.

Q. Well, read what it says. It is endorsed to Doctor Hooper. A. It say; "Doctor C. Vance Hooper, Treasurer Stadium Neighborhood Protest Committee, 3534 Ellerslie Avenue: Enclosed find one dollar which is to be used for expenses in connection with protesting use of the Baltimore Stadium for commercial enterprises." It is signed Mrs. J. Paul Schmidt, address 1211 Lakeside Avenue.

Q. It does not say anything about use by the Baltimore Orioles exclusively, does it?

(The Court) It is dated?

(The Witness) It has no date on it.

Q. It says, "Commercial enterprises." A. Yes.

\* \* \* \* \*

Q. And the showing of that receipt for a dollar does not change your testimony, of course? A. None whatsoever.

MISS MARGUERITE M. SCHILLING,  
740 East 37th Street

(Tr. p. 1539):

# DIRECT EXAMINATION

By Mr. Robert Bartlett:

\* \* \* \* \*

(Tr. p. 1540):

A. I have lived there for a period of twenty-four years.

Q. Who lives in the house with you? A. My mother. In fact, she is the property owner.

Q. Did your mother buy that house just after it had been built? A. Yes.

Q. That was about two years after the Stadium had been built? A. Yes.

\* \* \* \* \*

(Tr. p. 1541):

Q. Will you tell us, please, if those lights, when they are turned on, plus the lights that were installed when the Baltimore Orioles started to play baseball there, interfere with your comfort in any way? A. No, they do not.

Q. Can you go to sleep and go to bed and go to sleep when those lights are on without them disturbing you? A. Yes, I can.

Q. Is that true of your mother, as far as you know, also? A. She has the back room so she hasn't any light back there.

\* \* \* \* \*

(Tr. p. 1542):

Q. What about the noise from the loud speaker, is that disturbing? A. No, that isn't disturbing in any way whatsoever.



Q. It does not keep you awake, if you want to go to bed early and it is still going on? A. No, it does not.

Q. Tell us something about the dust. Has the dust been noticeably increased since baseball was played in that Stadium? A. No, I would not say that it has.

Q. How frequently is your home dusted a week, we will say? A. My mother is a very fastidious person and she dusts I would say on the average of every two days, regardless of the season.

\* \* \* \* \*

(Tr. pp. 1543-1544):

Q. And she did not start that as something new after the Orioles started to play baseball there in 1944? A. No, she did not.

Q. She did the same thing for fifteen years before that? A. Yes.

Q. Does the parking of automobiles at the time of football games and baseball games around your home seriously inconvenience you at all? A. No, sir, it does not. The people are very orderly, we find them very orderly before they go over to the game and when they call for their cars or go over to pick them up.

Q. Have you ever heard any cursing or swearing or obscene language from the people as they go by your home? A. No, I can't say I have.

Q. What about the throwing of empty whiskey bottles or beer cans and such things? A. I have never seen them.

Q. Even on your own lawn or on your neighbors? A. No, I have never seen that.

Q. How long does it take the ordinary crowd to get away after a game is over, do you know? A. I would say on an average of fifteen minutes or twenty minutes.

Q. Do you go over to the ball games yourself? A. Yes, I do go from time to time. I enjoy the Orioles very much.

Q. Do you go to the football games? A. No, I very seldom go to the football games. It has been a number of years since I attended a football game. I am more interested in baseball.

### CROSS-EXAMINATION

By Mr. Driver:

Q. What you are telling the Court, Miss Schilling, is that you see the lights and you hear the loud speaker and you can see the dust from the parking, and so forth, but that they don't bother you? A. No, they do not.

\* \* \* \* \*

(Tr. p. 1548):

WILLIAM I. BUBERT, JR.,  
719 East 36th Street

### DIRECT EXAMINATION

By Mr. Kemp Bartlett:

Q. You are a member of the Bar, are you not? A. Yes, I am.

Q. How long have you lived at 719 East 36th Street? A. Seven years.

\* \* \* \* \*

(Tr. pp. 1549-1551):

Q. It has been testified by some of the residents of that community that an intolerable condition is brought about by the dust that emanates from the parking lots and from the streets. What can you tell his Honor about that dust? A. I haven't noticed anything unusual in my home. There is the normal amount of dust. I have heard no complaints in the home about it.

Q. And by normal amount you mean you see dust as in other houses you have lived in? A. That is right.

Q. You don't notice great clouds of dust coming off and enveloping the neighborhood? A. I have never seen that, no.

Q. It does not interfere with the normal, comfortable enjoyment of your home? A. It does not.

Q. Do you hear the loud speaker at times? A. Yes, I hear it. The noise does not bother me any. You can sit in my home and read and listen to the radio or carry on a normal conversation.

Q. How about lights? A. The lights don't bother me. In fact, they don't shine in my home. You can see the lights over the top of the trees but they don't shine in the home at all.

Q. Is east 36th Street a street that is kept open? A. Yes.

Q. No parking is permitted on it? A. That's right.

Q. Do they park in the alleys in back of your house and around? A. No, I have never seen any cars parked in the alley.

Q. And you suffer no inconvenience or nuisance there from the parking of cars? A. Not at all.

Q. How about the lack of parking for cars, some neighbors have even complained about that? A. I don't mind moving my car up on Frisby Street or somewhere in the neighborhood, I never have any trouble.

\* \* \* \* \*

Q. Can you make a comparison with respect to the conditions when baseball is played and when other uses of the Stadium are made?

\* \* \* \* \*

(Tr. pp. 1551-1553):

A. It is about the same, yes. At the football games, you usually have a larger crowd but the noise does not bother me any more, whether football games or baseball games or high school games.

Q. It brings more people into the neighborhood, and, if anything, the noise is greater but that does not bother you? A. That's right.

Q. How long does it take the people to leave the neighborhood after the game is over? A. I would say ten or fifteen minutes the whole neighborhood is cleared away.

Q. Cleared away and quieted down? A. That's right.

Q. Have you ever been annoyed by boisterous or profane language being used on the streets? A. I never have.

Q. You never noticed any? A. Never noticed any; no, sir.

(Mr. Bartlett) That is all.

### CROSS-EXAMINATION

By Mr. Driver:

Q. What you are telling the Court, Mr. Bubert, is as I understand it, that you have observed the dust and you can see and hear the loud speaker and you can see the lights and you know there is a parking problem, but none of those things inconvenience you? A. Well, that is true, and I don't think the noise is loud enough to inconvenience me.

Q. Do you go to the ball games? A. Yes, sir.

Q. How often? A. Oh, two or three times a week.

\* \* \* \* \*

(Tr. pp. 1554-1555):

LAWRENCE RAGLAND,  
3615 Elkader Road

DIRECT EXAMINATION

By Mr. Kemp Bartlett:

Q. How far is 3615 Elkader Road from the Stadium?

A. About a half square. That is to 36th Street.

Q. Elkader Road runs north from 36th Street? A. That's right.

Q. And it joins 36th Street. Which side of the Stadium? A. In the bowl, towards the bowl; the end.

Q. Right almost at the north end of the Stadium, isn't it? A. That's right.

Q. How long have you lived there? A. Moved there in 1944.

Q. Did you purchase that house? A. Yes.

\* \* \* \* \*

(Tr. pp. 1555-1559):

Q. Can you tell Judge Mason about the traffic from your street, to begin with? Is it a one way street? A. I say they are all one way streets from there over to Ednor Road.

Q. Which way does the traffic run on Elkader? A. On Elkader it is northbound.

Q. Do they permit parking there? A. Yes, on both sides.

Q. Does that occasion an intolerable situation for you to have cars parked there on both sides when a game is going on? A. Do you mean for myself to find a place to park?

Q. Yes. A. No. We all have garages adjoining the houses. You can always go around there and put your car in the garage.

Q. And you don't find that a nuisance or constituting an annoyance? A. No.

Q. How about lights, do they come up that street? A. No, not up the front street. We get a small amount like right across the top of the house in the rear. Nothing in the front at all.

Q. Does that constitute an intolerable nuisance to you? A. No.

Q. Tell Judge Mason about the loud speaker, can you hear that at your house? A. Oh, yes.

Q. Does that interfere with your normal conversations? A. No, it does not interfere with any conversations as far as being continuously announcing line-ups and any substitutions that may be made. That is as far as I can hear anything of it.

Q. Does that constitute a nuisance to you and your family? A. No, sir.

Q. Who lives with you? A. Wife and two children.

Q. How old are they? A. Five and three.

Q. They are of tender age and go to bed early, don't they? A. That's right.

Q. Is there any noise there that interferes with their sleep? A. There is bound to be noise at a ball game, but it don't interfere with their sleep.

Q. I believe you do get some dust at your house? A. Oh, yes. No more, I suppose, than any of the others who have complained about it.

Q. What business are you in? A. Pennsylvania Railroad.

Q. What do you do? A. Passenger conductor.

Q. Are you at home often while baseball games are being played? A. Right now I am home every evening, every other evening.

Q. Right now games are not being played. How about summer time? A. Up to this time, about the same manner; almost every other evening.

Q. And that was true in the 1947 season and 1946 season? A. Oh, yes.

Q. So you have observed conditions out there? A. That's right.

### CROSS-EXAMINATION

By Mr. Driver:

Q. When these cars park on either side of the curb on Elkader Road, can a large piece of fire fighting equipment get down there? A. Yes, I believe it could.

Q. Did you ever see one try to get down there? A. No, I haven't seen one try, but I think they could get down. I am not saying they could get down with any great speed.

Q. It would be a pretty close squeeze, wouldn't it? A. Yes, I guess it would.

\* \* \* \* \*

(Tr. pp. 1559-1560):

Q. Do you go to the ball games? A. Yes, I enjoy it.

Q. How often do you go? A. Whenever the notion strikes me.

Q. About how often, once or twice a season? A. Oh, no, oftener than that. Maybe once or twice a week.

\* \* \* \* \*

(Tr. pp. 1561-1562):

Q. What you are telling Judge Mason is that you have observed the traffic problem and the lights and the loud speaker and dust, but that those things don't bother you? A. That is correct.

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GEORGE W. REED,  
226 Northwood

DIRECT EXAMINATION

By Mr. Kemp Bartlett:

Q. Mr. Reed, you are president of the Baltimore Baseball and Exhibition Company? A. Yes, sir.

Q. You are president of the National Marine Bank of Baltimore? A. Yes.

\* \* \* \* \*

(Tr. pp. 1567-1568):

Q. It has also been testified that at one time you stated to the neighborhood protestants that your desire to use the Stadium was temporary? A. I did.

Q. Will you tell Judge Mason about that? A. Judge, when we first went into the Stadium we had no idea whatever of using it permanently. I made a great deal of effort to locate other places where the games could be held. I was unsuccessful in locating a suitable place. I was rather handicapped in all instances because whenever something seemed it might be suitable was to be investigated I had first to contact other financial interests because the Baltimore Club was not able to build a stadium that would be decent for a city like Baltimore, and on one occasion had a site that I felt might be suitable and got the other parties actually to go along with me, when I found that just adjoining the property a



Catholic Church and school were to be built and we would not be able to use the property. But I made a great deal of effort to get other properties where the Club could play in its own home.

\* \* \* \* \*

(Tr. p. 1569):

Q. When did you change you mind, if you did, about the temporary use of 33rd Street location? A. I was called on the telephone in Florida by the Baltimore office of the Baltimore Baseball Club and was told that the City had asked the office whether we would make a long term contract with them if they built a new park. This was after the Legislature had authorized the loan but before the voters had voted for it, and my answer to that was they could tell the City if the voters approved the loan, we would enter into a long term contract. The idea of changing our mind was if the rest of the City, the majority of the City wanted the park at 33rd Street, or wherever they wanted it, that we would not be a party to holding that improvement up. The City intimated that they would want us there on a long term contract if they built the new park. That was about in February of 1947 I think.

\* \* \* \* \*

(Tr. p. 1575):

#### CROSS-EXAMINATION

By Mr. Driver:

\* \* \* \* \*

(Tr. pp. 1579-1580):

Q. You knew of the complaints which the neighbors made from the inception of this thing, mainly the noise and loud speaker and the dust and lights and so forth? A. That's right.

Q. They were the complaints that were made to you by Mr. Evans and other members of the committee? A. That's right.

Q. You recognized that those were just complaints and made some effort to correct them? A. We made every effort we could to correct them.

Q. Some you tried to correct and some you could not correct but whatever it was, you did your level best to help out? A. That's right.

Q. And you represented to the Stadium Neighborhood Protest Committee whether you could completely alleviate the condition or not, your use was temporary and you intended to get out in the very near future, that is correct? A. That is correct.

### REDIRECT EXAMINATION

By Mr. Kemp Bartlett:

\* \* \* \* \*

(Tr. pp. 1580-1581):

(The Court) Mr. Reed, I want to ask you a few questions. I understood you to say up until February, 1947, you hadn't any idea of staying permanently in the Stadium.

(The Witness) That is right.

(The Court) Then you changed your mind when someone connected with the City called you up and suggested you might get it for a longer term, is that right?

(The Witness) Yes.

(The Court) Is that the only thing that made you change your mind?

(The Witness) The consideration was, your Honor, that the City intimated that in order—that they would need the income from the Baltimore Club if they built the new Stadium, and what we had in mind was a long

term lease. I told them we would if the voters approved the loan; otherwise, we would not.

(The Court) Of course, this present lease that is covered in this bill of complaint hasn't anything to do with any lease for a longer period than 1948.

(The Witness) The lease we will make now will probably be for 1948 only.

\* \* \* \* \*

(Tr. pp. 1585-1587):

JAMES M. ROCHE

DIRECT EXAMINATION

By Mr. Kemp Bartlett:

Q. You live 3629 Kimble Road? A. That's right.

Q. You are a member of the Bar of Baltimore City?  
A. Yes.

Q. How long have you lived in the neighborhood of the Stadium? A. Thirty years.

Q. Where did you first live? A. 1720 East 33rd.

Q. That was before the Stadium was built? A. That was in 1921.

Q. What was the condition of the land where the Stadium stands now? A. It was in a very deplorable condition at that time. Prior to their going in and excavating it, it was just a mill pond there.

Q. Were there any houses near? A. No, not at that time. I lived right at Hillen Road at that time, 1720 is about one house from Hillen Road.

Q. How long have you lived at No. 3629 Kimble Road?  
A. Eight years.

Q. How far is that from the Stadium? A. I would say approximately 600 feet.

Q. It is in the block just north of 36th Street? A. That is correct, sir.

\* \* \* \* \*

(Tr. pp. 1587-1590):

Q. Mr. Roche, it has been testified in this case that there is an unbearable condition of dust when the Orioles are using the Stadium. What can you tell Judge Mason about that? A. I have never actually seen any dust myself around there except the ordinary dust that comes from even the buses, which is raised on the street. But I have never seen any clouds of dust that I can recall.

Q. Does the dust constitute an unbearable nuisance in your house? A. No indeed; certainly not.

Q. How about the loud speaker system, do you hear that at your house? A. Well, occasionally you hear it but it isn't such a noise that it would annoy you.

Q. What kind of a sound it is? A. It is more or less a muffled sound. It is not a sharp staccato sound that would be penetrating to the ear.

Q. How continuous is it? A. I would say that it is not continuous at all. As a matter of fact, you only hear it once in a while, I would say every few minutes or so.

Q. Tell the Court whether or not it is possible for you to carry on an ordinary conversation in your home when the loud speaker is going? A. Why, certainly.

Q. Your street is a one way street, I think? A. That's right, northbound.

Q. And parking is permitted on it? A. Yes, they park on it.

Q. And they park in the alleys? A. Well, no, I don't know that I have ever seen them park in the alleys.

Q. But they park in the street. A. They park in the street, yes.

Q. To what extent does it interfere with your use of the street? A. As a matter of fact, we let the children in the neighborhood use the driveway into the garage so they can park cars there.

Q. And the children make tips or money for parking cars there? A. That's right. Fifty cents I think they charge.

Q. And that isn't objectionable to you? A. Certainly not. No indeed.

Q. How about rubbish, particularly whiskey bottles and beer cans left on your lawn? A. I have never seen any.

\* \* \* \* \*

(Tr. pp. 1590-1591):

Q. While baseball is being played is there any difference in the Stadium or around the Stadium than when football is being played or other events? A. I think if there is a nuisance, it is created by football and not by baseball.

Q. You like baseball? A. Yes.

Q. You attend the games frequently? A. Yes, I do.

Q. You live just north of 36th Street? A. That's right.

Q. The main entrance to the Stadium is on what street? A. 33rd.

Q. Can you tell what percentage of the people use your end of the Stadium as compared with those that use the other end? A. I would say somewhere between ten and twelve per cent.

Q. Come and go through the north gate? A. That's right.

Q. As compared with those that use other entrances?  
A. That's correct.

### CROSS-EXAMINATION

By Mr. Driver:

\* \* \* \* \*

(Tr. p. 1592):

(Mr. Kemp Bartlett) You mean the ten per cent. use the 36th Street entrance during baseball games.

(The Witness) That's right.

\* \* \* \* \*

(Tr. pp. 1592-1595):

Q. Are you home pretty much of the evenings or are you usually out? A. If the ball game is on I am at the ball game.

Q. You like baseball? A. Sure, I certainly do.

Q. You go every time you have a chance? A. That's correct.

Q. Is it your testimony to this Court that you have never seen any dust coming off the parking lots adjacent to the Stadium? A. That's correct.

Q. Have you ever looked? A. As a matter of fact, the boys playing outside, if there was any dust down there, creates more than you see from the Stadium when parking cars up there because most of those lots have some grass on them.

Q. You say most of the lots have some grass on them?

A. I certainly do.

Q. Today? A. I think so. Some parts of it, I wouldn't say all of it.



(The Court) You mean the west side or the east side?

(The Witness) On the west side, your Honor, more so than on the east side.

(The Court) You think there is more grass on the west side?

(The Witness) Yes, your Honor, more on the west side than on the east side.

Q. Have you been there, Mr. Roche, and walked down to the ticket window when the crowds are coming on to those parking lots with automobiles? A. I have been there, yes.

Q. And you have never seen any dust there? A. If you want me to qualify that, I mean nothing to cause any inconvenience, nothing that you could not see. It was certain discernible at all times and it certainly would not create a nuisance, in my opinion.

Q. Could you see dust from those parking lots? A. I have never seen any.

Q. Have you ever seen any dust coming from the parking lot on the east side of the Stadium? A. Not that I can recall, no.

Q. Did you look? A. Well, not that I made—to observe it, no, I did not.

\* \* \* \* \*

Q. You can hear the loud speaker where you live? A. Occasionally, yes.

Q. Have you ever heard any music played over it? A. No, I never have.

Q. Have you ever heard anything said over it? A. Well, I have heard some statements made over it, particularly when they were trying it out before a football game. At that time it was very audible, but I have never heard it in a baseball game. I mean I have heard

the crowd roar. I hear them not making noise to amount to anything. It was just a certain amount, like a loud vote of thanks or appreciation for what happened. Whether it was a home run or a spectacular catch or strike out.

\* \* \* \* \*

(Tr. pp. 1596-1597):

NAT MOTTA,  
3507 Fairview Avenue

DIRECT EXAMINATION

By Mr. Kemp Bartlett:

Q. You are employed by the Henry O. Berman Company, are you not? A. That's correct.

\* \* \* \* \*

Q. What is your position with that company? A. Manager of the Sound Division.

Q. Have you had anything to do with the public address system at the Baltimore Municipal Stadium? A. Yes, we maintained the system during both baseball and football games last year.

\* \* \* \* \*

(Tr. pp. 1598-1602):

Q. Will you describe the system to the Court? A. The system consists of a preamplifier which is used for the amplification of sounds from a microphone and a series of tower amplifiers which are used for further amplification and a total of twelve horns with travel units.

Q. Where are the horns located? A. At the north of the Stadium.

Q. Are they located high up or on poles? A. They are located on poles at the north of the Stadium.

Q. On how many poles? A. Two poles.



Q. Which poles are they, are they the two light poles?  
A. We have a catwalk running across and between these on which the speakers are mounted. They are mounted on adjustable brackets which permit orientation of the speakers both horizontally and vertically.

Q. And you maintained those for baseball and football?  
A. We maintained the system for baseball and we operate and maintain it for football.

Q. How many watts are used in that amplification system?  
A. During the football season we use 200 watts and during the baseball season we use 100 watts.

Q. Why is that difference?  
A. Because of the greater amount of power required during the football season to cover the audience.

Q. So the coverage and the power is twice as much for football games as it is for baseball?  
A. I would say it is more than twice as much.

Q. Why do you say that?  
A. Because we don't operate the amplifiers wide open during baseball, whereas we do operate them wide open, as far as they can go, on the football, right up to the point of acoustic feed back. That is the sounds from the speakers which get reamplified through the microphone.

Q. I want to direct your attention to June or July of 1947 and ask you if you were called to the Stadium for any purpose?  
A. Yes. When we set up the system at the start we oriented the horns and adjusted them to get what we call adequate coverage in the Stadium. Then later on we were called in—

Q. By whom?  
A. By Mr. Armstrong, and we were asked to send some men to the Stadium, as Mr. Armstrong himself wanted the speakers reoriented and certain speakers disconnected. The speakers at the north, facing north, were disconnected and the other speakers lowered and oriented.

Q. How many speakers were disconnected at that time? A. Four speakers were disconnected at that time.

Q. And you say those speakers were facing north?  
A. Those speakers were facing north.

Q. Can you fix the time with any degree of accuracy as to when this was? A. I can say it was some time in late June or early July. That is the closest I can come to it.

Q. Mr. Armstrong testified it was about the middle of the 1947 baseball season. A. That would be, I guess, fairly close.

Q. Did you go there at that time? A. No, but the men who did the adjustment reported back to me and said they felt since the speakers had been reoriented that the sound coverage in the Stadium would be inadequate, that they were cut down too far for adequate coverage.

Q. To your knowledge, were they used that way the rest of the season? A. Yes, because we had to reconnect them for the football season.

Q. Reconnect the four that had been disconnected?  
A. Yes.

Q. Of course, if there were twelve horns before cutting out four of them, reduced it by 25% didn't it? A. 25%. Well, possibly what I should say here is that electrically if you cut down the horns and recount it or rematch it, you can drive more power, but actually the mismatch cuts it down more than 25%.

Q. I believe our arithmetic is wrong. If you take out four from twelve it is one-third cut down, isn't that correct? A. Yes, a third.

(Tr. pp. 1602-1604):

VAL B. HINZE,  
1300 Lakeside Avenue  
DIRECT EXAMINATION

By Mr. Driver:

Q. By whom are you employed Mr. Hinze? A. I am employed by the J. S. Young Company.

Q. Mr. Hinze, I hand you one set of these pictures and ask you if you can identify them. A. Yes. They are my pictures I took in 1939, in the spring of 1939.

Q. Can you identify where these pictures were taken? A. Yes, right in the center of the parking lot of the Stadium.

Q. On which side? A. On the east side of the Stadium.

(Mr. Driver) If your Honor please, we offer these photographs in evidence.

(The Court) Is there any objection?

(Mr. Robert Bartlett) Yes, sir. I don't think this is rebuttal.

(Mr. Driver) There has been a lot of testimony here, sir, that the situation subsequent to 1944 was not something that has existed for many years.

(The Court) Let me see them.

(Photographs handed to the Court.)

(The Court) I think they are admissible for what they are worth. There has been testimony here that for some time there has not been any grass at all on those parking lots.

(Photographs referred to offered and received in evidence as Plaintiffs' Exhibit 32 and Plaintiffs' Exhibit 33, respectively.)

Q. Mr. Hinze, the dog shown on these photographs is your dog? A. My dog, yes.

\* \* \* \* \*

(Tr. pp. 1605-1606):

# CROSS-EXAMINATION

By Mr. Biddison:

Q. What was the date those pictures were taken? A. About March of 1939.

Q. Do you recall whether they had a dry summer then and whether this grass stayed there throughout the whole year? A. It stayed all through the whole year of 1939.

Q. You recall that? A. Yes, I know that because I go through there quite often with the dog for a walk and we cover that Stadium quite a bit.

\* \* \* \* \*

MRS. ANNA M. REGAN,  
1305 Lakeside Avenue

(Tr. p. 1607):

# DIRECT EXAMINATION

By Mr. Driver:

Q. Mrs. Regan, when did you buy your house at 1305 Lakeside Avenue? A. 1937.

\* \* \* \* \*

(Tr. pp. 1608-1609):

Q. What can you tell us, Mrs. Regan, with respect to the lights? Do the lights from the Stadium affect you in your home? A. They are very distracting, the strong lights.

Q. Do they shine into your home? A. Our bedrooms face that way to the west side and we have to draw all the shades at night and close the windows.

Q. What can you tell us about the noise? A. Very bad.

Q. Will you describe it in a little detail and tell us what kind of noise you hear and how it affects you in your home, if at all? A. Well, the loud speakers, every once in a while you will hear a cheer and a boom, and "get that bum out of there."

\* \* \* \* \*

(Tr. p. 1610):

(The Court) You did not hear "Get this bum out of there" on the loud speaker, did you?

(The Witness) No, sir.

(The Court) You heard that from the crowd.

(The Witness) That is right, sir.

Q. Can you hear the loud speaker at your home? A. We do.

Q. Can you hear what is said over the loud speaker in your home? A. No, we are just disgusted with it. We don't bother.

Q. What, if any, damage is incurred by your property? A. Well, tramping over the grass plots.

Q. Has that resulted in any damage to your property? A. You have to be continually after it every year.

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#### COMPLAINANTS' EXHIBIT NOS. 16 & 19

THIS AGREEMENT, made this 2 day of April 1947, by and between the BOARD OF PARK COMMISSIONERS, Head of the Department of Public Parks and Squares of the Mayor and City Council of Baltimore, hereinafter called the "Board," party of the first part, and THE BALTIMORE BASEBALL AND EXHIBITION COMPANY, a corporation organized and existing under the laws of the State of Maryland, hereinafter called the "Company," party of the second part,

## WITNESSETH—

1. The Board grants to the Company the privilege of using the Stadium and playing field, known as the Baltimore Stadium, together with the large office on the second floor of the Stadium Building and the small connecting room and the east and west locker rooms and baths on the first floor of the Stadium Building, the privilege of selling score cards or game programs for its baseball games played in the Stadium, also the use of the lawn mowers (in their present condition), and the hose lawn sprinkler system, usually kept at the Stadium, also the use of flood lights, ticket selling booths, admission gate facilities, wash and rest rooms, toilet facilities, public address system, press box, electric wires and other facilities necessary for playing baseball games in said Stadium, to which the public generally is admitted upon payment of an admission fee, together also with the right of ingress and egress for pre-season exhibition games between any clubs in organized baseball, and for the playing of the home games scheduled to be played in Baltimore by teams of the International League of Professional Baseball Clubs, and in addition thereto, for the playing of such games as the Company may have necessity to play in Baltimore under the Shaughnessy Plan of Play-offs, or in the "Little World Series" between the International League and the American Association. The Company shall have, during its scheduled games, the use and control, except as noted in Paragraph XIII, of the parking space inside of the iron fence south of the Stadium Building, subject to the condition that cars used by the Members of the said Board and by the Director of Parks shall not be excluded, but the said Company shall have no right to charge and collect fees for parking automobiles on said lot. The privilege herein granted to the Company to use the large office on the second floor of the Stadium Building and the small connecting room, and the east and west locker rooms and baths on the first floor of

the Stadium Building, and the parking space in front of said building, is not exclusive and the Board reserves the right to grant the use of said office and rooms to others in common with the Company, and does hereby reserve the use of said offices and rooms exclusively for the use of the Navy Athletic Association on all dates upon which Navy events are held in the Stadium. Otherwise, the Company shall have the privilege of using said office in common with others during the calendar year 1947 unless the Board shall determine before the end of 1947 that this privilege is not to be renewed, in which event said office shall be vacated within sixty (60) days thereafter. The Board, however, reserves the right to grant exclusive use of said office and rooms to others on such day or days as shall not conflict with the playing of baseball games covered by this agreement. If the exercise by the Park Board of its right to permit others to use the Stadium materially affects the playing field, the Park Board will, at its expense, except as noted in paragraph XVIII, restore the playing field to the condition that it was prior to such use and in time for the next scheduled baseball game. In the event of a change of the scheduled date for playing a baseball game, such changed date shall first be submitted to the Park Board and approved by it.

II. The Company agrees to pay the Mayor and City Council of Baltimore for the aforesaid privilege, 7¢ per head on all paid admissions. The Company likewise agrees to pay the Mayor and City Council of Baltimore 7¢ per head for all persons in excess of 50,000 admitted by pass, and on all ladies admitted on other than regular admission tickets, when the total attendance of these two groups exceeds 50,000 persons. No charge will be made for other categories admitted free to the games, which categories include personnel of the Armed Forces and newsboys.

The aforesaid payments by the Company to the City shall be collected and paid at the end of each game



played, or if two games are played in one day, then at the end of the second game, and such calculations shall be checked and verified by a representative of the Board to be named in writing addressed to the Company, and all payments shall be made by check payable to the order of the Mayor and City Council of Baltimore and delivered to said representative. The Company agrees to furnish the Board certified copies of the Federal and State Admission Tax Returns covering all baseball games played at the Stadium by or under the auspices of the Company, and to submit a detailed statement to the Board showing the detail of all receipts from the sale of tickets and admissions, including receipts from free admissions and admissions by pass. It is understood that such statements shall be subject to verification by the City Auditor, and the Company agrees to make such records available to him as may be necessary for him to verify such statements.

The Board has granted the selling privilege in the Stadium for the year 1947 to Mr. Benjamin Tupler and Mrs. Sally Tupler, trading as the Watts Sales Company, upon terms and conditions set out in a contract between the Board and said Watts Sales Company. The Baltimore Baseball and Exhibition Company shall in no way interfere in the performance of this Stadium selling contract or act counter to any of the provisions or conditions contained therein.

III. The grant to the Company of the privilege of using the Stadium and its facilities, as in paragraph I hereof set forth, includes the privilege of selling score cards, or game programs, and of broadcasting the baseball games played in the Stadium, or of leasing the right to broadcast such games, but does not include any grant of the privilege of selling refreshments, novelties, cigars, cigarettes, peanuts, "hot dogs," sandwiches, soft drinks, ice cream, rental of cushions, etc., which such selling privileges are expressly hereby reserved by the Board, except as in Paragraph II hereof set forth, as the



Board has granted such selling privileges exclusively to the Watts Sales Company, which Company will handle all such selling at the Stadium at all events, including football games, other athletic contests, etc., which may be held there during the year. The foregoing enumerated exclusions from the grant of the right to use the Stadium and its facilities is not intended as a restrictive enumeration; it being the intention of the Board to grant to the Company only the right to use the Stadium for baseball games, and to sell during such games score cards and game programs, and to broadcast such games, or to lease the right to broadcast such games, but for no other uses or purposes, any previous arrangements, understandings, or acts to the contrary notwithstanding.

IV. The Company shall, at its own expense, and with its employees and equipment, including such equipment (lawn mowers and the hose lawn sprinkler system) as in Paragraph I hereof set forth, keep the entire ball field (both infield and outfield) in condition, by mowing, watering, rolling, etc., all under the direction of the Director of Parks..

V. The Company shall, at its own cost, procure and keep in force a public liability insurance policy in the amount of \$50,000.00/\$300,000.00, and a policy of personal property insurance in the amount of \$10,000.00, in form satisfactory to the City Solicitor, to protect and save harmless the Mayor and City Council of Baltimore and the Board of Park Commissioners against any and all liability and claims for damages of every character and description arising out of the exercise by the Company of the privileges herein granted.

VI. The Company shall promptly comply with all applicable Federal, State and Municipal Laws and Ordinances and applicable rules and regulations.

VII. The Company shall repair or replace any part of the Stadium or its facilities which it may damage in the course of its use thereof, ordinary wear and tear

excepted. Upon the failure of the Company so to do, the Board is hereby authorized to make such repairs at the cost and expense of the Company.

VIII. The Company shall make no advertising or commercial announcements over the loud speaker during, before or after baseball games, except such as are directly connected with the playing of baseball, unless expressly permitted in writing by the Board or its duly authorized representatives. Announcements in the interest of public health, welfare and safety of the spectators are permitted by both parties.

IX. The Company shall not erect, maintain or permit any signs, billboards or advertising of any kind in the Stadium unless expressly permitted in writing by the Board.

X. The Company shall employ its own electricians to attend the floodlights on the parapet of the Stadium as well as the floodlights installed by it on the playing field. In the event that an electrician employed by the Board is also employed by the Company for electrical or other work after his usual working hours, the Company shall obtain from said electrician a written statement to the effect that he understands that he is working for the Company and not for the Board and that, if injured while performing such work, he will not be entitled to receive any benefits under the Pension System of the City of Baltimore, nor any compensation from the City under any workmen's compensation law. Notwithstanding the foregoing, the Company agrees that if the Mayor and City Council of Baltimore shall be held liable for the payment of any workmen's compensation to said electricians, or any of them, for accidents arising out of or in the course of their employment for the benefit of the Company, it will reimburse the City for the amount of said payments and will also reimburse the City for any death or disability benefits under the Pension System which it shall be compelled to pay

to any such electrician or his representative on account of accident arising out of or in the course of his employment for the benefit of the Company.

XI. The Mayor and City Council of Baltimore is a Municipal Corporation, existing under the laws of the State of Maryland, and the Board is a department of said Municipality. Neither the City nor the Board can exercise any authority or power which is not expressly granted by the City Charter and the Statutes of Maryland, or necessarily implied from the powers so granted. It is therefore agreed that if, for any reason, it shall be held by a court of competent jurisdiction that the Board has no legal authority to grant this privilege upon the terms and conditions herein set out, neither the Company nor anyone else shall have any claim against the City or the Board on account of the want of power in the Board to grant this privilege or on account of anything done or failed to be done hereunder. The Board reserves the right at all times to exercise in the interest of the public full control over the Stadium in respect to all matters connected with the exercise of the privileges herein granted, not inconsistent with the terms hereof.

XII. This grant of privilege shall not be transferable, and shall automatically be terminated at midnight on December 31, 1947.

XIII. The Company agrees to arrange its schedule so that its use of the Stadium hereunder shall not interfere with the following uses of the Stadium:

- (a)—Easter Sunrise Service at 6:00 a. m. on April 6, 1947
- (b)—Independence Day Celebration on July 4, 1947
- (c)—Use of the ball field by the Maryland Junior Drum and Bugle Corps on Labor Day, September 1, 1947
- (d)—U. S. Navy Football Games on October 11, November 8 and November 15, 1947

- (e)—Professional Football (All America Conference) on September 7 and September 28, 1947
- (f)—Professional Football (National League) on September 21, 1947
- (g)—City-Poly Football Game on November 27, 1947

XIV. The Company agrees that when it uses the Stadium for playing baseball at night, the beginning of the playing of such game or games shall not be later than eight-fifteen (8:15) o'clock, P. M., Eastern Standard Time, and no full inning shall be started later than ten-forty-five (10:45) P. M., Eastern Standard Time.

XV. The Company agrees that it will, at its own expense, and using its own employees, trucks, etc., clean the entire Stadium area enclosed within the wire fence after each game, of all paper, bottles and trash of every kind, and dispose of the same, all to the satisfaction of the Director of Parks.

XVI. Any expense resulting from making changes in the existing lighting and sound amplification equipment, and any additions made thereto at the request of the Company, shall be paid for by the Company directly to the contractor making the changes and additions, all to be approved by the Director of Parks, and no changes shall be made without the consent of said Director of Parks.

XVII. The Company agrees to bear the costs, by payment direct to the dealer furnishing the same, of replacing all electric lights burned out during the time that the Company is using the Stadium for its games.

XVIII. At the end of the season, including play-offs and "Little World Series," the Company shall begin to level and re-sod the infield, when notified by the Director of Parks. Such work shall be at the Company's expense and shall be completed within four days after the aforementioned notification, and shall include loosening up

the soil of the infield, placing sod and rolling same, to the satisfaction of the Director of Parks.

Whenever the playing of Football games as listed in Paragraph XIII requires the use of that portion of the field including the skinned diamond, it shall be the responsibility of the Company in such cases, when notified by the Director of Parks, to remove the pitcher's mound before each such football game and replace it if required, at the Company's own expense.

The Company agrees to relocate, at its own cost, the two field lighting poles now situated at the North end of the Stadium field, to other points on the field, to the full satisfaction of the Navy Athletic Association. These poles, so relocated, may remain standing during the entire football season provided they are stripped of their transverse arms and lighting fixtures.

BOARD OF PARK  
COMMISSIONERS

(Sgd.)

BY .... C. KIRK STRAUB  
President

ATTEST

(Sgd.) JOSEPH J. KING  
Executive secretary

THE BALTIMORE BASEBALL  
AND EXHIBITION COMPANY

(Sgd.)

BY: ALPHONSE THOMAS  
President

ATTEST

(Sgd.) J. KEMP BARTLETT, JR.  
Secretary

APPROVED AS TO FORM AND LEGAL SUFFI-  
CIENCY:

.....  
City Solicitor

EXHIBIT NO. 18

L E G E N D

- 1) Home of Mr. and Mrs. Frederick E. Green, 1200 East 33rd Street.
- 2) Home of Mr. Leo J. Streb, 1204 Lakeside Avenue.
- 3) Home of Mr. Harry Y. Wright, 1318 Lakeside Avenue.
- 4) Home of Mr. Henry G. Spates, 1319 Windemere Avenue.
- 5) Home of Mr. Charles H. Whitby, III, 1305 Windemere Avenue.
- 6) Home of Dr. and Mrs. J. Willis Guyton, 1207 East 36th Street.
- 7) Home of Mr. William D. Gentry, 1106 East 36th Street.
- 8) Home of Mr. Wilfred E. Gosnell, 3621 Kimble Road.
- 9) Home of Mr. Chester W. VanDusen, 3612 Rexmere Road.
- 10) Home of Mr. Lee E. Staples, 920 East 36th Street.
- 11) Home of Dr. and Mrs. Z. Vance Hooper, 3534 Ellerslie Avenue.
- 12) Home of Walter K. Harrison, 750 East 36th Street.
- 13) Home of Miss Jennie Sophie Hayen, 3308 Ellerslie Avenue.
- 14) Home of Mr. and Mrs. Frederick Thomas, 726 East 33rd Street.
- 15) Eastern High School.
- 16) Baltimore City College.





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Pages 483-484

Map of  
City of Baltimore  
Prepared by  
Bureau of Plans and Surveys  
1928





1948

DEFENDANT'S EXHIBIT NO. 5

(Filed in Open Court)

ORIOLES AT HOME

April 22, 23, 24.....Buffalo  
 April 25\*, 26, 27.....Toronto  
 April 28, 29, 30.....Montreal  
 May 1, 2\*2, 3.....Rochester  
 May 17, 18, 19.....Montreal  
 May 29, 30\*31, 31....Syracuse  
 June 1, 2, 3.....Newark  
 June 4, 5, 6\*.....Jersey City  
 June 11, 12, 13\*13.....Buffalo  
 June 14, 15, 16.....Rochester  
 June 17, 18, 19, 20\*....Toronto  
 July 8, 9, 10, 11\*11.....Newark  
 July 12, 13, 14, 15..Jersey City  
 July 16, 17, 18\*.....Syracuse  
 July 26, 27-27, 28.....Buffalo  
 July 29, 30, 31.....Montreal  
 Aug. 1\*1.....Montreal  
 Aug. 19, 20, 21.....Newark  
 Aug. 22\*, 23, 24, 25....Toronto  
 Aug. 26, 27, 28, 29\*..Rochester  
 Sept. 6-6, 7, 8.....Syracuse  
 Sept. 9, 10, 11, 12\*....Jersey City

ORIOLES AWAY

May 5, 6, 7, 8.....Buffalo  
 May 9\*, 10, 11, 12....Montreal  
 May 13, 14, 15-15.....Toronto  
 May 16\*.....Buffalo  
 May 20, 21, 22, 23\*....Newark  
 May 24, 25.....Syracuse  
 May 26, 27, 28.....Jersey City  
 June 7, 8, 9, 10.....Rochester  
 June 21, 22, 23.....Buffalo  
 June 24, 25, 26, 27\*....Montreal  
 June 28, 29, 30.....Toronto  
 July 1, 2, 3.....Rochester  
 July 4\*, 5-5, 6, 7.....Syracuse  
 July 19, 20, 21.....Jersey City  
 July 22, 23, 24.....Newark  
 July 25\*25.....Jersey City  
 Aug. 2-2, 3, 4.....Toronto  
 Aug. 5, 6, 7.....Montreal  
 Aug. 8\*, 9, 10, 11....Rochester  
 Aug. 12, 13, 14.....Buffalo  
 Aug. 15\*, 16, 17, 18....Syracuse  
 Aug. 30, 31, Sept. 1, 2...Newark  
 Sept. 3, 4, 5\*.....Jersey City

\*Denotes Sunday Games

## DEFENDANTS EXHIBIT NO. 12

(Filed in Open Court)

## STADIUM

1947

## 103 ALL EVENT USES

Day Uses 39		Night Uses 64	
Oriole Baseball	Other Uses	Oriole Baseball	Other Night Uses
15 Uses (23 and 3 Exhib.) games (11 Double Head.)	24 Uses	42 Night (53 Games)	22 Nights (23 Events)

## NOTES:

1—Total Oriole Games:

76 Regular and 3 Exhibition Games.

2—Other Night Use represents 35% of Total Night Use.  
(Or 1 out of 3).

3—Other Events (Day and Night) were 45% of Entire Use.

4—Oriole Night Use was 40% of the Entire Use.

Total Night Use 62% of Total Use

Oriole Nite Use 65%

## STADIUM

1946

## 92 ALL EVENT USES

Day Uses 32		Night Uses 60	
Oriole Baseball	Other Uses	Oriole Baseball	Other Night Uses
16 Uses (25 and 2 Exhib.) games (11 Double Head.)	16 Uses	45 Nights (55 Games)	15 Nights (16 Events)

## NOTES:

1—Total Oriole Games:

80 Regular and 2 Exhibition Games.

2—Other Night Uses were 25% of Total Night Use.  
(Or 1 out of 4).

3—Other Events (Day and Night) were 34% of Entire Stadium use.

4—Oriole Night Use was 49% of Entire Use.

Night Use 65%

Oriole Use 75%

## STADIUM

1945

## 93 ALL EVENT USES

Day Uses 27		Night Uses 66	
Oriole Baseball	Other Uses	Oriole Baseball	Other Night Uses
13 Uses (19 and 2 Exhib.) games (8 Double Head.)	14 Uses (15 Events)	45 Nights (57 Games)	21 Nights (21 Events)
		12	

## NOTES:

1—Total Oriole Games:

76 Regular and 2 Exhibition Games.

2—Other Night Uses were 32% of Total Night Use.  
(Or 1 out of 3).

3—Other Events (Day and Night) were 38% of Entire Stadium Use.

4—Oriole Night Use was 48% of Entire use.

Night Use 70%

Oriole Night Use 68%

## STADIUM

1944

## 70 ALL EVENT USES

Day Uses 25		Night Uses 45	
Oriole Baseball	Other Uses	Oriole Baseball	Other Night Uses
9 Uses (15 Games) (6 Double Head.)	16 Uses	28 Nights 36 Games	17 Nights (18 Events)
		8	

## NOTES:

1—Total Oriole Games:

51 Regular Games. (Includes play-offs and series)

2—Other Night Use was 38% of Total Night Use.

3—Other Events (Day and Night) were 47% of Entire Stadium Use.

4—Oriole Night Use was 40% of Entire Stadium Use.

Nite Use 64% of Total Use.

Oriole Night Use 62% of Total Night Use.

## STADIUM

1943

## 22 ALL EVENT USES

Day Uses  
7Night Uses  
15

- 1—Night Use was 70% of Entire Stadium Use.  
 2—Three (3) Navy Games at Night with attendance of  
     32,000  
     55,000  
     56,000
- 

## STADIUM

1942

## 39 ALL EVENT USES

Day Uses  
12Night Uses  
27

- 1—Night Use was 69% of Entire Stadium Use.
- 

## STADIUM

1941

## 40 ALL EVENT USES

Day Uses  
12Night Uses  
20Uncertain  
8

- 1—Night Use was 50% of Entire Stadium Use.
- 

## STADIUM

1940

## 40 ALL EVENT USES

Day Uses  
10Night Uses  
26Uncertain  
4

- 1—Night Use was 65% of Entire Use for 1940.

## STADIUM

1939

## 40 ALL EVENT USES

Day Uses  
14Night Uses  
26

1—Night Use was 65% of Entire Stadium Use.

## OPINION

(Filed 5th April, 1948)

Mason, J.

The Bill of Complaint in this case was filed on December 23rd, 1947 by Frederick E. Green and others against Robert Garrett and others, constituting the Department of Recreation and Parks of Baltimore City and the Baltimore Baseball and Exhibition Company, a Maryland Corporation. The plaintiffs are residents and property owners in the neighborhood of the Baltimore Stadium, which is in the area bounded by 33rd Street, Ellerslie Avenue, 36th Street and Ednor Road, in the northern section of Baltimore City. The defendants are the Department of Recreation and Parks of Baltimore City, hereinafter called "Department", the Baltimore Baseball and Exhibition Company, hereinafter called the "Club" and the International League of Professional Baseball Clubs, admitted by petition as a party defendant, and hereinafter called "League".

The Bill seeks to restrain the Defendants from entering into any agreement for the use of the Stadium by the "Club"; to annul the agreement of April 2nd, 1947 for the use of the Stadium by the "Club" in 1947; that the Defendants be restrained from operating the loud speaker of the Stadium to the extent that it may be heard in the homes of the complainants; permitting the parking of automobiles so that complainants are pre-

vented normal access to and from their homes; permitting the parking of automobiles in such manner as to create dust and dirt and permitting flood lights to cast light into complainants' homes. The "Department" and "Club" filed separately their combined demurrers and answers. The demurrer and answer of the "Club" being adopted by the "League" as its demurrer and answer when it intervened. As the time during which the agreement of 1947 was in effect has expired, any decision about it would be moot and it will not be referred to in this opinion.

The Baltimore Stadium property is land acquired by the "Department" prior to 1922 and known at that time as Venable Park. In 1922 it consisted of an abandoned brick yard and other rough scrub land. There was only one house nearby and that has since been demolished. 33rd Street was used as a street but had not been widened. During 1922 Mayor Broening and some of his associates conceived the idea of building a stadium upon the land, in which athletic games of considerable magnitude might be held, the first thereof being the Army-Marine game in the Fall of 1922. From that time until 1939 the Stadium was used infrequently for football games, track meets and civic events. It had been called the "White Elephant", "Lonely Acres" and "The Vast Void", indicative of its general lack of use. A charge was customarily made for the use of the facilities. Former Mayor Broening testified that the proceeds of the first game was divided three ways, that is, one-third to the Army, one-third to the Marines and one-third to the City. The share of the City amounted to \$30,000. While some stress was laid by the Complainants upon the use of the land adjacent to the Stadium for landscape purposes, it is certainly true that the only use of the Stadium proper was for games and feature events. It was never used for landscaping in any sense of the word. The infrequent use of the Stadium continued until 1939 when lights permitting night use were



installed and beginning with that time the use increased tremendously. Many of the football games and other events were held at night and the increased use may be found reflected in the revenues accruing as a result thereof. A public address system was installed in 1935 and improved upon from year to year and in 1939 the system was modernized and is the one in present use.

On July 4th, 1944, a disastrous fire destroyed the buildings comprising what was then known as Oriole Park on 29th Street and Greenmount Avenue, the permanent home of the "Club". Mayor McKeldin of Baltimore City offered the "Club" the use of the Stadium. It was accepted and the "Club" completed the 1944 season there. It may be said, without the slightest qualification, that the move was intended to be temporary in nature and no one connected with the "Department", "Club", "League" or the complainants had any idea that it would be permanent. It is also true that during the succeeding years the occupancy was considered temporary and as Mr. Reed, President of the "Club" expressed it, "not until February 1947 did the 'Club' have any idea of being permanently in the Stadium". It was when the "Department" offered the "Club" a long term agreement for the use of the Stadium in February, 1947 and not until that time that the "Club" abandoned the idea of moving.

Of course it must be borne in mind that the agreement which is the subject of this suit is not for a long term. It is for the 1948 season.

The "Club" plays most of its games at night and on Sundays. When played at night the games start about 8 p.m. and last until 10 p.m. for a single game, or start at 6:30 and last until 10:45 p.m. if a double header is played. On Sundays the games begin in the afternoon and are over by dusk. There can be no doubt that the games played by the "Club" have produced a "use" of the Stadium greatly in excess of its former use. Many citizens count that as highly desirable because it lightens



the tax burden of carrying the Stadium property. The complainants who live nearby consider it very undesirable because of the noise, confusion and disturbance it produces. The Court, however, must consider the proposition from only a legal angle and without regard to the wishes of the population generally or those especially affected by its use for professional baseball purposes and determine whether that use, under such a contract as was in force in 1947, should be prohibited for the season of 1948.

The first question that occurs is whether under the Baltimore City Charter, adopted November 5, 1946, the "Department" has the authority to make the contract with the "Club". Complainants take the position that the "Department" is one of the executive departments of the municipal corporation and as such has only such powers as have been conferred upon it by the Charter and these powers are to be strictly construed, and do not give the authority.

Under the old City Charter (1939 Ed.) the power of the Board of Park Commissioners was "to rent or lease property, which it may acquire on behalf of the City, whether by purchase, condemnation or otherwise, at such reasonable rentals, and for such terms as to the Board may seem proper". In construing this section, the Court of Appeals of Maryland in the case of *Hanlon v Levin*, 168 Md., 674 at 680, held that it was "only intended to give authority to the Park Board to execute leases for property which it held for the City, but only so long as such property had not become a part of the public parks of the City and therefore remained undedicated to the public use. If, after such property has become dedicated to the public and has become a part of its system of public parks, the Park Board can validly lease, as attempted in this case, a part of the park, the situation is entirely conceivable whereby additional leases may be executed, until the entire park may be occupied and controlled by private enterprise, thus

destroying the purpose for which the parks were created". It must be remembered in connection with that case that what the Court was discussing was a lease running for a term of ten years giving the Broadcasting Corporation exclusive possession and control of part of a public park for 24 hours of each day in the whole ten years, for a purpose that was entirely foreign to any use that had been theretofore made of the park, which in the opinion of the Court is something quite different from the issue involved in the case at bar.

In addition to what has been said above, the provisions of the new Charter (1946) must be given consideration. They are much broader than those of the previous section. They are "Sec. 96. Recreation and Parks—General Powers and Duties. The Board of Recreation and Parks shall have the following powers and duties:

\* \* \*

"(g) To charge and collect fees for admission, services and the use of facilities, and rentals for the use of property controlled by it; provided, that no lease of such facilities shall be made for a period of thirty days or more (or for successive periods aggregating thirty days or more) without the prior approval of the Board of Estimates. All moneys collected by the Department shall be accounted for and paid to the Treasurer at such intervals as he may prescribe;"

The provision that the Board shall have power "to charge and collect fees for admissions, services and the use of facilities and rentals for the use of property controlled by it" would hardly have been inserted in the Charter if the Board has no power to make an agreement for the use of any facilities or property controlled by the "Department". It may well be that if the Board agrees with the "Club" for the use of the Stadium on the days set out in the 1948 schedule that the approval of the Board of Estimates will be required as the aggre-

gate of the days' use is certainly more than thirty, but that is a question of procedure and not of power or authority. In deciding the question of power to rent or license consideration must be given to the nature of the use of the facilities. The Court is inclined to believe that the agreement contemplated is in the nature of a number of daily licenses rather than a leasing of the facilities. This is confirmed by the fact that the Board retains control of the grounds, the policing of them and their use is only for certain hours and not for even any whole day in which exclusive control is afforded.

After a full consideration of the subject, the Court finds that the Board has the power under the new City Charter to make the agreement with the "Club" provided the licensing or granting of the facilities does not represent a diversion of public property to private use. As to that question:

There can be no doubt that the Stadium property has become part of the public park system and that as such is dedicated to the use of the public, but that does not necessarily mean that it is to be used exclusively for landscaping or gardening purposes; in fact the contrary is certainly true. It has been dedicated to the playing of athletic games and the holding of civic events, usually of considerable magnitude. The whole history of the proposition asserts that fact. Some of the land was purchased so that a stadium of large proportions could be built. Its completion was hurried so that an important game might be accommodated and while many important civic events have been held there, by far its greatest use has been for the holding of athletic games. The use contemplated by the "Department" is also very different from that exclusive use contemplated by the Baltimore Broadcasting Corporation in the *Hanlon* case, *supra*. That was an exclusive control of the plot, described in the lease, for a period of ten years. While the City had some rights with respect to broadcasting time, nevertheless the exclusive control of the premises during every hour

of every day within the ten year term was in the Broadcasting Company. With respect to the contract under present consideration the "Club" will not have exclusive use of the Stadium for even the days or parts of the days that it is permitted to use the plant. It will be without any selling privileges in the Stadium because they have been or will be granted to independent concessionnaires, under bid, and there are other restrictions on its use including the one that it is to be used only for playing baseball at the times limited and mentioned. The "Club" agreed for 1947 to arrange its schedule so that it would not interfere with the events listed herewith:

- a) Easter Sunrise Service
- b) Independence Day Celebration, July 4th
- c) Junior Drum and Bugle Corps, Sept. 1st
- d) U. S. Naval Academy football games, Oct. 11, Nov. 8th, 15th
- e) Professional Football (All America Conference) Sept. 7th and 28th
- f) Professional Football (National League) Sept. 21st
- g) City College-Polytechnic Football game, Nov. 27th

The agreement for 1948 will contain similar provisions. The "Club" agrees to start night games not later than 8:15, Eastern Standard Time, and no full inning shall be started later than 10:45 p.m. It must, at its own expense, clean the area after each game. It must level and resod the infield after the playing season and must relocate the two field lighting poles to the full satisfaction of the Navy Athletic Association before the beginning of the football season. So that the privilege to use is far from exclusive at the times allotted.

The next inquiry is how much of the Stadium time will the "Club" receive. Will it be permitted to monopolize it to the virtual exclusion of other clubs or organizations so that the purpose of it as a public place for games will be negated or will the use be moderate, reasonable and with little or no interference in its use by other organizations.

During the year 1947 a total of 103 events, of every type and description, took place in the Stadium. Of these there were 39 day events and 64 night events. Of the former, the "Club" played 15 and other organizations held 24 and of the latter, the "Club" played 42 and other organizations held 22. The percentages are interesting. Of the total number of events held, the "Club" was responsible for 64%. Now that would be a large percentage if all the Stadium time were fully used. But that is far from the fact. If morning, afternoon and evenings are counted and every day during the approximately nine months of playing season is considered it would be possible to hold 819 events during said time. On that basis the "Club's" use of the Stadium represents eight percent of the possible use. The "Club" schedule for 1948 runs from April 22nd to September 12th, approximately five months, with seventy events listed. If we take the six months from April to October inclusive, which covers some of the busiest months of the year, the "Club" cannot possibly use more than 13% of the morning, afternoon and evening use. This seems far from exclusive control of the premises. If we try the percentages on the basis of persons viewing the games as spectators, keeping in mind the great crowds at the important football games, it is a reasonable assumption that the same result would follow.

The schedule does not tend to exclusive use in the busiest part of the baseball season because the periods when the "Orioles" are away effectually provide ample time for the use of the Stadium by any organization that may require it during the summer months. As an ex-

ample, the team is home from June 1st to June 6th; away from June 7th to June 10th; home from June 11th to June 20th; away from June 21st to July 7th and so on. Now most of the games actually played at home are played at night or on Sunday, so that for all practical purposes the Stadium is usable by any organization every evening and Sunday that the Oriole team is away and every weekday during the daytime. It is not monopolized or used exclusively by the "Club" when its schedule is being played from April 22nd to September 12th.

Now if the contemplated contract is not monopolistic and not exclusive as was that in the Hanlon case, supra, is it true that because the "Club" is a privately owned organization that it must not be permitted to use the Stadium? And in considering that proposition the situation must be faced squarely and without equivocation. If it is illegal to rent the Stadium to a privately owned corporation for seventy events during a summer season it is illegal to rent it to a privately owned corporation for one event and the reverse is also true, assuming as said before, that the renting does not consume so much of the usable time as to be monopolistic. Mr. C. Markland Kelly, former member of the Park Board, and former Mayor William F. Broening stated that the Park Board made no distinction whether the organization securing the use of the Stadium was privately owned or of a public nature. Mr. James E. Kelly, former Secretary of the Park Board, said they had stopped a midget automobile race and a stunt performance, because these events were of a commercial nature, that is privately owned. General Hancock, Director of the Stadium for many years, said the Orioles played the Washington Americans of the American League as early as April 9th, 1928, in an exhibition pre-season game, and that admissions were charged. That "Lucky" Teter and the Midget Races were stopped. That the Board had no policy,—“We got what events we could”. Perhaps his

statement that the Board had no policy is the most accurate that can be offered. Of course every game played in the Stadium to which admission is charged is in a sense commercial. The City received \$30,000. as its share of the first game ever played therein and the teams competing each received a like amount. As Mr. Markland Kelly said, the games offered by the Navy Athletic Association, the various Universities, the "Colts" football team, the boxing matches, all partake of a commercial atmosphere so far as the price level goes, the splitting of the proceeds, the results to the players and the proprietors and the City of Baltimore. The enthusiastic spectators or "fans" are proud of the Colts, the scholastic and other teams, but they are also equally proud of the Orioles. If we are measuring by one game license, that is to say, the right in the "Department" to license for one game only, it is impossible to say that the "Department" has power to license to the Colts or to the Navy Athletic Association but does not have the power to license to the "Club". If we grant the power to license for one event we must concede the power to license for more than one, absent a situation that amounts to a monopoly or to an exclusion use of the general public. Those cases where contracts have been enjoined are like the Hanlon case, *supra*,—cases where the general public have been excluded, such as *Lincoln Park Traps v. Chicago Park District*, 323 Ill. Ap. 107,—lease of a part of Lincoln Park for twenty-six years to a trap-shooting club and denying membership to the general public.

The following cases sustain the right of the "Department" to license where the public is not excluded: *Baird v Board of Recreation Commissioners of South Orange*, 160 A., 537; *Byrant v. Logan*, 49 S. E., 21; *Colwell v. City of Great Falls*, 157 P. (2d) 1013, 1019 and cases there cited. In the last mentioned case, the Court said "It is generally conceded that a municipal corporation having erected a building in good faith for municipal or



park purposes has the right, when such building is no longer used by the Municipality, or when parts are not needed for public use, or *when, at intervals the whole building is not so used, and when it does not interfere with its public use, to permit it to be used either gratuitously or for a compensation for private purposes.*" (Emphasis supplied)

In the case of *Clarey v Philadelphia*, 311 Pa. 11, the leasing of the Municipal Convention Hall for professional sporting events (boxing, wrestling, etc.) was questioned as unlawful private use because the ground on which the hall was built was dedicated "as a public park forever" by city ordinance. The ordinance also provided for free public access at all times. As in the instant case, the complainant, a taxpayer, conceded that the erection of the hall was proper use of the property for the purpose for which it was dedicated, but objected to the use of the building for professional sports. As to this, the Court stated:

"Unquestionably this hall, built with public funds upon property dedicated to public purposes, must be held to be devoted to public use. But there can be no sound reason why, when the hall is not required for public purposes, the city may not permit its use by private persons. From its very nature as a building designed to accommodate large groups of people, the hall cannot possibly be in demand for public gatherings for more than a small portion of the time, and necessarily must frequently be idle, yet with little diminution in the cost of maintenance. There can be no objection to the City's receiving a return from the use of the hall by private persons upon occasions when it would otherwise be idle. To say, under the facts of this case, that the City in engaging in private business—that of promoting sporting events or leasing buildings—is absurd. Complainant's contention is, in effect, the hall must stand unused at all times when it is not



in demand for strictly public use. Although he objects only to the use of the hall for professional sporting events, if his objection is sustained for the reasons he gives, or any reasons, the effect is to confine the use of the hall to purely public functions and thereby exclude its use for all private affairs, with the result that the city will be barred from receiving any revenue for its maintenance, and the entire cost thereof will have to be borne by the taxpayers. Such argument must be rejected. It is not sound in law or business practice. It would be folly to require this large and expensive public structure to be kept idle when it might be used by private persons for a proper rental, for the mutual advantage of the taxpayers of the city and those permitted to use it,

and later:

From what we have said, it is evident that the City of Philadelphia is within its legal authority in renting its convention hall for private use when it is not required for public gatherings. Of course, this power must not be exercised so as to prevent or interfere with the use of the hall for the public purposes to which it was dedicated, which must always be given precedence. But complainant does not aver that any private use of the convention hall has at any time in the past, or will at any time in the future, prevent or interfere with its use for public purposes. This we think was a vital part of his case."

In this State only one other case has been found which provides any help on the question of lawful or unlawful private use of public property. That case is *Gottlieb-Knabe Co. v. Macklin*, 109 Md. 429, and it denied the injunction sought by a taxpayer against the renting of a municipal auditorium to the officers of the State Militia who, in turn, sublet the building from time to time for concerts, etc., sharing the revenue so derived with the

City. In holding that a municipality is empowered to rent real property not needed for public use, the Court said, at p. 435:

"We are of the opinion that the term 'renting' as here used embraces the power to let or hire the use for a single evening or any number of evenings—whether consecutive or not. A liberal construction of such a Charter power is required to enable the City, in the interest of its general taxpayers, to minimize the loss of revenue upon its unused property."

and, at p. 436:

The doctrine of *Ultra vires* ought to be reasonable and not unreasonably understood and applied, and that whatever may be fairly regarded as incidental to, or consequential upon those things which the Legislature has authorized, ought not, unless expressly prohibited, to be held by judicial construction to be *ultra vires*."

While the above case does not involve park property, it definitely recognizes the principle that public property may be used for a private purpose where there is no interference with the public use thereof.

It appears therefore that the dedication of the Stadium for park and recreational purposes does not prevent its licensing by the "Department" to the "Club", or the execution of the agreement herein mentioned.

During the course of the trial considerable stress was laid upon the use of the Stadium Administration Building by the "Club" as its main business office. While it is entirely proper for the "Club" to use these facilities in connection with the games played, there is no valid reason for permitting the "Club" to have its main business office in that space to the exclusion of others lawfully entitled to its use, especially after the close of the season. If the business manager is maintaining the

*Agm.*

"Club's" business office there it should be moved to some other location and conducted there at the expense of the "Club".

Does the fact that the Stadium is located in a residential zone prevent its use for professional baseball? Plaintiffs' contend that to use the Stadium for professional baseball is contrary to the provisions of the Zoning Ordinance, citing paragraph 8, that "no land or building shall be used in a residential area for:"

\*\*\*\*"2) Amusement Parks other than public parks and playgrounds"

\*\*\*\*"5) Business"

The Stadium was in existence as a place for the playing of games, athletic contests, civic events and pageants, etc. in the year 1922, long before the Zoning Ordinance was adopted in 1931. If it was used for games when the Ordinance was adopted, it may be so used now.

In *Chayt v. Board of Zoning Appeals*, 177 Md. 426 at 435, the Court quotes the following passage: "As understood in the Ordinance 'existing use' should mean the utilization of the premises so that they may be known in the neighborhood as being employed for a given purpose, i.e., the conduct of a business. Ordinarily an existing use for business combines two factors,—a) construction or adaptability of a building or room for the purposes, and b) employment of the building or room or land within the purpose." The Stadium, as said before, has been used for games for many years. Baseball is a game and the enlargement or extension of the use, if any, must consist in the distinction between amateur and professional contests. We know that many professional contests were held there before the year 1931 and that, in fact, the "Club" team took part in a contest there in 1928. Also we would have to make the fine distinction between professional baseball as being an extension of use over the use for other professional

games, which in the opinion of the Court is not logical or reasonable. Therefore there is no enlargement or extension of use of the Stadium in the playing of professional baseball that is in conflict with the Zoning Ordinance.

The last question is do the allegations of the Bill of Complaint and the proof sufficiently establish that, the playing of professional baseball at the Stadium creates a nuisance against which Complainants are entitled to relief? Plaintiffs' complain of noise, lights, dust, disorder, automobile parking and property destruction. Of these in their order:

The complaint of noise is principally in respect to the public address system. There is testimony on behalf of the Complainants that the noise of the loud speaker disturbs their rest and that of their families; their peace and quiet on the Sabbath; interferes with ordinary conversations in the home and otherwise constitutes a nuisance. The defendants produced numerous witnesses who testified that they were not disturbed, although many of them admitted that the noise existed, but said they were not disturbed by it. After full consideration one must conclude that the noise is objectionable and productive of discomfort to persons of ordinary sensibilities, especially during the evening hours and on Sunday. It will not do to answer this by stating that it is as bad or worse when baseball games are not being played. It probably is worse when football games are being played. The Bill prays that the Respondents and each of them be restrained from permitting to exist the operation of the loud speaker to the extent that it may be heard in the homes of the Complainants and if it is operated by both or either of the Defendants in a way to produce actual physical discomfort to the Complainants then they are entitled to an order restraining such operation. *Meadowbrook Swimming Club, Inc. v Albert*, 173 Md., 641; *Bonaparte v Denmead*, 108 Md., 174. In the course of the opinion in the Meadowbrook case, *supra*, the Court

said: "The rule which must control is whether the nuisance complained of will or does produce such a condition of things as in the judgment of reasonable men is naturally productive of actual physical discomfort to persons of ordinary sensibilities, tastes and habits, such as in view of the circumstances of the case is unreasonable and in derogation of the rights of the party, (*Hamilton Corp. v Julian*, 130 Md., 597; *Woodyear v Schaefer*, 57 Md., 1, 12) subject to the qualification that it is not every inconvenience that will call forth the restraining power of a Court. The injury must be of such a character as to diminish materially the value of the property as a dwelling and seriously interfere with the ordinary comfort and enjoyment of it. *Adams v Michael*, 38 Md., 123 *Gallagher v Flury*, 99 Md., 181, 182; *Euler vs Sullivan*, 75 Md., 616, 618.

There is testimony in the record which is credible tending to prove that the value of the properties of Complainants, as dwellings, has been diminished by the noise and as said above, to interfere with the ordinary comfort and enjoyment of them. This was followed by testimony by Mr. James Carey Martien giving the present values of the various properties and while Mr. Martien's valuations tend to show that the increases in value since the dwellings were purchased are about equal to those elsewhere in Baltimore City, the Court is convinced that the noise has diminished the value of the Complainants' properties as dwellings and interfered with the ordinary comfort and enjoyment of them by the Complainants. It may not be out of place to state at this point that a careful examination of the record in the Meadowbrook case, *supra*, shows no direct testimony by real estate brokers or experts of diminished valuations. Yet we find Chief Judge Dennis, in his opinion, used the words, "The injury must be of such a character as to materially diminish the value of the property as a dwelling." As he had to find injury that materially diminished the value of the property as a dwelling,

in order to justify his decree, he must have found it in the complaints of the plaintiffs about the nuisance. It is not to be found elsewhere. The Defendants will be restrained from operating the public address system under a decree similar to that in the Meadowbrook case, *supra*, that is to say, "in such manner that the noise made by the same is transmitted onto the properties of the plaintiffs, or any of them, so as to deprive the Complainants and the members of their families from the reasonable use and comfortable enjoyment of their respective homes."

The lighting system prior to 1944 consisted of six steel towers, each about 60 feet above the rim of the Stadium bowl. Four of these towers contain 37 lights each and two towers contain 56 lights each. Each light is rated at 1,000 watts. When the "Club" is playing at night it uses, in addition, two steel poles erected on the field, each pole containing 16 large lamps and 10 smaller ones. The large lamps are of 1,500 watts power.

Mr. Clarence Adams, a graduate consulting electrical engineer, with much experience in lighting problems, made some light tests on the night of March 8th, 1948, with all Stadium lights turned off and on. He gave the following foot candle readings at the various locations:

	Off	On
1200 E. 33rd St .	.0518	.308
1204 Lakeside Ave.	.0294	.126
1318 Lakeside Ave.	.0174	.0392
1319 Windemere Ave.	.014	.0266
1305 Windemere Ave.	.0168	.0672
36th & Elkader Rd.	.0531	.1205

The lamps on the two poles on the field that are used when the "Orioles" are playing at night were not in use when Mr. Adams made his observation. That, however, would not be important because all the testimony agrees that the light from them is directed on the field

so that none of it spills over the rim of the Stadium bowl and therefore cannot affect the Complainants. The spill that concerns them comes from the original lights. These original lights are not in good condition, cannot be depressed beyond 25 or 30 degrees and undoubtedly could and should be very much improved in their operation.

Mr. Adams gave the following foot candle power as requisite for traffic lighting in order to meet ordinary traffic requirements:—

.2	foot candle power for light traffic	
.4	"	" next light traffic
.6	"	" medium traffic
.8	"	" heavy traffic
1.2	"	" greatest traffic

According to these figures the light readings at the various locations, except 1200 E. 33rd Street, are less than required for even lightest traffic. He stated that the lights on the street lamps on 33rd Street, at a point 10 feet from the post, read .5 and that the average person to read a newspaper at night needs at least 1. There is a great deal of conflict in the testimony about whether the lights produce actual physical discomfort to persons in the neighborhood. Without going into detail, the record does not present such clear and convincing proof of actual physical discomfort and diminished value of the properties as dwellings from this cause as to demand the remedy of injunction.

The next complaint is of dust from the parking of automobiles on the land adjacent to the Stadium proper. These two plots lie east and west of the Stadium. Complainants contend that they were originally Venable Park, were landscaped and sown in grass and were not only more sightly but did not give rise to the dust problem, that is now said to exist. This dust problem is denied by many witnesses and becomes a question of



fact. However, there can be no doubt that the parking areas are more frequently used now than they were in, say 1925, are largely denuded of grass and do cause dust. No one could doubt that the use of the Stadium would increase over the years. The normal growth in population and the increased popularity of athletics (both desirable) would naturally tend to increase the use of the parking areas and thereby to increase the dust.

The "Department" has the authority to permit parking on the spaces in question. Some dust is bound to result. It cannot be said to be more than one would naturally expect under the circumstances and the situation is not one requiring the aid of the injunctive process.

The problems of disorder, automobile parking and property destruction will be considered together. Essentially they are police problems. Whenever one makes his home near a place where large crowds of people come together parking difficulties are likely to occur. Unless the utmost vigilance is maintained by the Police Department some disorder and property destruction will occur. The Stadium was there long before most of the Complainants, and they could look forward to traffic congestion and crowded conditions when games were played or civic or other events held. These things are inevitable. It is generally said that the crowds within the Stadium at baseball, football and other events are better behaved than in many places, possibly due to the encouragement to family units to attend and that is certainly to the credit of defendants. Traffic problems, automobile parking on the streets and disorder outside the Stadium are all beyond the control of the defendants but may be controlled by the police and it would be a strange sort of justice to order the games to cease or the Stadium to remain unused to remedy a condition over which those holding the games or licensing the use have no direct control and for which they have no responsibility.



To sum up: The "Department" has the power under the City Charter to license the use of the Stadium to the "Club"; said licensing is not a diversion of public property to private use and the licensing of the Stadium for professional baseball does not create a nuisance for which the injunctive process may issue, except as hereinafter noted. The use of the Stadium by the "Club" is not contrary to the Zoning Ordinance. The "Club" and the "Department" will be restrained from using the Administration Building facilities except in connection with the games played, and from operating the public address system under existing conditions. With respect to the public address system the decree to be similar to that in the Meadowbrook case, *supra*. No injunction will be issued restraining use of the lights or the parking of automobiles, and the prayers therefor will be denied. The demurrer to the Bill is overruled.

A decree in conformity with this opinion may be submitted. Defendants to pay costs.

April 5, 1948

E. PAUL MASON

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DECREE

(Filed 28th April 1948)

This cause coming on to be heard upon the Bill of Complaint, Answers, Demurrers and Intervening Petition, and the parties being present in court and represented by counsel, and testimony having been taken in open court, and the pleadings having been read and considered, and the case having been argued and submitted, and the Court being of the opinion that the Demurrers to the Bill of Complaint should be overruled, and that the respondent the Department of Recreation and Parks of Baltimore City has the power, under the Baltimore City Charter as amended, to license the use of the Baltimore Municipal Stadium to the respondent The Baltimore Baseball and Exhibition Company, and that such

licensing is not a diversion of public property to private use, and that the use of the Baltimore Municipal Stadium by the respondent The Baltimore Baseball and Exhibition Company is not contrary to the Zoning Ordinance:

And the Court being further of the opinion that no injunction should be issued restraining the use of the lighting system, or respecting the parking of automobiles, as prayed in the Bill of Complaint, or for any of the causes as alleged in the Bill of Complaint or prayed for in the prayers thereto, except as set forth below; and the Court being further of the opinion that traffic problems, automobile parking on the streets and disorder outside of the Stadium, as complained of by the complainants, are all beyond the control of these respondents, but are within the control of the Police Department of Baltimore City:

But the Court being of the opinion that the respondent The Baltimore Baseball and Exhibition Company should be restrained from using the facilities in the Administration Building at the Stadium except in connection with the games played, and that the respondent the Department of Recreation and Parks of Baltimore City should be restrained from permitting such use of the Administration Building by the respondent The Baltimore Baseball and Exhibition Company, other than as above; and that the said respondents, and each of them, should also be restrained from operating the public address system under existing conditions before and during baseball games in such a manner that the noise made by the same is transmitted onto the properties of the complainants so as to deprive the complainants, and the members of their families, from the reasonable use and comfortable enjoyment of their respective homes, all as set forth in an Opinion filed by the Court in these proceedings on the fifth day of April, 1948,

It is, thereupon, this 12th day of April, 1948, by the Circuit Court No. 2 Of Baltimore City,

1. Adjudged, Ordered and Decreed, that the Demurrers of the respondents to the Bill of Complaint are hereby overruled; and be it

2. Further Adjudged, Ordered And Decreed, that the respondents, The Baltimore Baseball and Exhibition Company and the Department of Recreation and Parks of Baltimore City be and they are permanently enjoined, and strictly prohibited, from operating the public address system now installed in the Baltimore Municipal Stadium, or any such system hereafter installed therein, before or during baseball games, in such manner that the noise made by the same is transmitted onto the properties of the complainants, and the members of their families from the reasonable use and comfortable enjoyment of their respective homes; and be it

3. Further Adjudged, Ordered And Decreed, that the respondent, The Baltimore Baseball and Exhibition Company, be and it is hereby permanently enjoined, and strictly prohibited, from maintaining its main business office in the Administration Building of the Baltimore Municipal Stadium, and from using the facilities of such building to the exclusion of the general public, except that these facilities may be used in connection with scheduled baseball games played by the Baltimore Orioles in the Baltimore Municipal Stadium, and that the respondent, the Department of Recreation and Parks, be and it is hereby permanently enjoined, and strictly prohibited, from permitting such use of the said Administration Building, except as hereinabove provided; and be it

4. Further Adjudged, Ordered And Decreed, that the other relief prayed for by the complainants is hereby denied, and that the Bill of Complaint with respect thereto is dismissed; and be it

5. Further Adjudged, Ordered And Decreed, that the respondents pay the costs of these proceedings.

(Signed) E. PAUL MASON  
Judge

